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

APJ ENTERPRISES OF NEWBURGH, LLC  
  
Lakeside Road, Newburgh  
Section 11; Block 1; Lot 74.1  
R-1 Zone

----- X

Date: October 24, 2024  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, 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 CHAIRMAN SCALZO: Good evening.  
3 I'd like to call the meeting of the  
4 Zoning Board of Appeals to order. The  
5 first order of business are the public  
6 hearings which are scheduled.

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

23 Roll call, please.

24 MS. JABLESNIK: Darrell Bell is  
25 supposed to be here, so we'll wait and

2 see.

3 James Eberhart.

4 MR. EBERHART: Present.

5 MS. JABLESNIK: Greg Hermance.

6 MR. HERMANCE: Here.

7 MS. JABLESNIK: John Masten.

8 MR. MASTEN: Here.

9 MS. JABLESNIK: Donna Rein.

10 MS. REIN: Here.

11 MS. JABLESNIK: Darrin Scalzo.

12 CHAIRMAN SCALZO: Here.

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

17 CHAIRMAN SCALZO: If you would all  
18 please rise for the Pledge.

19 (Pledge of Allegiance.)

20 CHAIRMAN SCALZO: Before I actually  
21 get started with the formal agenda, I  
22 have a few announcements. If anyone is  
23 here this evening to comment on APJ  
24 Enterprises of Newburgh, Lakeside Road,  
25 they have contacted us and have asked for

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an additional month to gather the materials that we had requested from them at last month's meeting. We will not be hearing the APJ Enterprises application this evening. If anybody is here, you can hang around, because it's really cool what we do. If not, you're free to go.

(Time noted: 7:03 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 31st day of October 2024.

*Michelle Conero*  
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MICHELLE CONERO

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

PRIME AND TUVEL

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

----- X

Date: October 24, 2024  
Time: 7:03 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, 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

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CHAIRMAN SCALZO: Also this evening, Prime and Tuvel, which is 2 Lakeside Road, otherwise known as the QuickChek application, we are waiting for some information back on our side of things. We let the applicant know that we cannot act this evening, we have not heard or gotten the information back that we need, so that is also not being heard this evening. If anyone is here for the QuickChek, we will not be discussing that application this evening.

(Time noted: 7:04 p.m.)

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

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IN WITNESS WHEREOF, I have hereunto  
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*Michelle Conero*  
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MICHELLE CONERO



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

JOSE OTAVALO CONTRERAS  
3 Becks Lane, Newburgh  
Section 34; Block 3; Lot 10.2  
B Zone

----- X

Date: October 24, 2024  
Time: 7:04 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: JOSE OTAVALO CONTRERAS

----- X

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

2 CHAIRMAN SCALZO: Moving on to our  
3 regular agenda. Our first applicant this  
4 evening is Jose Otavalo Contreras, 3 Becks  
5 Lane in Newburgh, seeking an area variance  
6 of increasing the degree of nonconformity  
7 of the front and side yards to build a  
8 second story addition.

9 Do we have mailings on this,  
10 Siobhan?

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

13 The County has timed out.

14 CHAIRMAN SCALZO: That's great.

15 MS. JABLESNIK: I haven't heard  
16 back.

17 CHAIRMAN SCALZO: Do we have anyone  
18 here this evening for the Jose Contreras,  
19 3 Becks Lane application? Please step  
20 forward. Let us know who we have with us  
21 tonight because it's being recorded.

22 MR. CONTRERAS: I'm Jose Contreras.  
23 My property is on 3 Becks Lane.

24 At this time I'm trying to put a  
25 second floor. You know, my property

2 isn't big.

3 CHAIRMAN SCALZO: Very good. We're  
4 all obliged by our positions here to go  
5 take a look. I actually drove past your  
6 place today.

7 It's my understanding that you're  
8 only looking to go up, you're not  
9 expanding out any further than you  
10 already are.

11 MR. CONTRERAS: Just going up.

12 CHAIRMAN SCALZO: Just going up?

13 MR. CONTRERAS: Yeah.

14 CHAIRMAN SCALZO: So for those of  
15 you, members of the public, that are  
16 curious as to why he may be here if he's  
17 just going up, when you go up in a  
18 building, that does increase the degree  
19 of nonconformity. That's why the  
20 applicant landed with us.

21 Very good. I have no comments on  
22 this application.

23 I'm going to turn to the Members of  
24 the Board. I'm going to start to my  
25 right with Mr. Eberhart.

2 MR. EBERHART: No comment.

3 CHAIRMAN SCALZO: Very good.

4 Mr. Hermance, do you have comments  
5 regarding this application?

6 MR. HERMANCE: I have none.

7 CHAIRMAN SCALZO: Mr. Masten?

8 MR. MASTEN: Not at this time.

9 CHAIRMAN SCALZO: Ms. Rein, do you  
10 have any comments?

11 MS. REIN: Dave, is this a Type 2?

12 MR. DONOVAN: It's a Type 2 action.

13 MS. REIN: Then no comments.

14 CHAIRMAN SCALZO: At this time I'll  
15 open it up to any members of the public  
16 that wish to speak about this application.

17 MR. STRAVALLE: I just --

18 CHAIRMAN SCALZO: Please state your  
19 name. Stand up.

20 MR. STRAVALLE: I'm sorry. John  
21 Stravalle, I'm at 11 Becks Lane, two  
22 houses up. I've been there for over  
23 forty years.

24 My only concern, I want to know, is  
25 it going to be a rental or a residence?

2 MR. CONTRERAS: I'm going to move  
3 to there.

4 UNIDENTIFIED SPEAKER: He's going  
5 to move.

6 MR. STRAVALLE: I'm sorry. I'm as  
7 deaf as can be.

8 The only other question is, when I  
9 bought my house they made me do a road  
10 maintenance agreement. Is there any plan  
11 -- what are you going to do about the  
12 snow? For forty years I've been plowing  
13 that road. She'll tell you.

14 CHAIRMAN SCALZO: Sir, I appreciate --

15 MR. STRAVALLE: I know it has  
16 nothing to do with you guys.

17 MR. DONOVAN: Now that you've got  
18 him here, you want to ask.

19 MR. STRAVALLE: I understand.

20 CHAIRMAN SCALZO: The rub is, as  
21 you guys --

22 MR. STRAVALLE: I don't care if he  
23 puts a mansion up there. It's only going  
24 to make my house worth more money.

25 CHAIRMAN SCALZO: What I'm going to

2 recommend is, other questions that are  
3 not related to this application, as you  
4 guys exit the building it will probably  
5 be at the same time, so you should  
6 probably have all of your questions  
7 answered that don't apply to this  
8 application --

9 MR. STRAVALLE: I'm fine with two  
10 stories. It's a small house and a big  
11 piece of property.

12 CHAIRMAN SCALZO: I don't mean to  
13 raise my voice. I'm just trying to help  
14 you --

15 MR. STRAVALLE: I'm deaf. I'm  
16 sorry.

17 CHAIRMAN SCALZO: That's okay.

18 Are there any other members of the  
19 public that wish to speak about this  
20 application at 3 Becks Lane?

21 We've got one coming up from the  
22 back. Please state your name, sir.

23 MR. ROMERO: Hank Romero on Todd  
24 Lane.

25 3 Becks Lane, did I understand

2 right that it's going to be just a  
3 residence only?

4 CHAIRMAN SCALZO: A residence only.  
5 Actually, let me just say, that also does  
6 not necessarily sit within the application.  
7 The application is for the building to go  
8 up one story. That's why they're here.  
9 Anything else related to residence, if  
10 it's going to be a rental, if he's going  
11 to plow it, that has nothing to do with  
12 why the applicant is here.

13 MR. ROMERO: I just want to say  
14 that they've done an excellent job  
15 keeping up their property, the trimming  
16 and the lawn.

17 CHAIRMAN SCALZO: I'm happy to hear  
18 that. If you're exiting the building at  
19 the same time they are, you can pat him  
20 on the back and thank him.

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

24 (No response.)

25 CHAIRMAN SCALZO: Okay. I'm going

2 to look back to the Board. Any other  
3 comments?

4 MR. HERMANCE: No.

5 CHAIRMAN SCALZO: Very good. In  
6 this instance I'll look to the Board for  
7 a motion to close the public hearing.

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

10 MS. REIN: I'll second it.

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

15 MR. EBERHART: Aye.

16 MR. HERMANCE: Aye.

17 CHAIRMAN SCALZO: Aye.

18 MR. MASTEN: Aye.

19 MS. REIN: Aye.

20 CHAIRMAN SCALZO: Those opposed?

21 (No response.)

22 CHAIRMAN SCALZO: Very good. This  
23 is a Type 2 action under SEQRA. Ms. Rein  
24 asked Counsel about that a little earlier,  
25 so we're ahead of it.



2 In this instance we are going to  
3 go through the area variance criteria  
4 and discuss the five factors which we  
5 are weighing, the first one being  
6 whether or not the benefit can be  
7 achieved by other means feasible to  
8 the applicant. Well, the benefit he's  
9 seeking is to go up a second story.  
10 There's no other way to do that.

11 The second, if there's an  
12 undesirable change in the neighborhood  
13 character or a detriment to nearby  
14 properties. Actually, I think we  
15 just heard testimony from the public  
16 that they like what he's done with  
17 the property already. I would say  
18 no. It's actually a desirable change  
19 to the neighborhood.

20 The third, whether the request is  
21 substantial. Well, not really. He's not  
22 increasing the footprint of the house,  
23 he's just going up.

24 The fourth, whether the request will  
25 have adverse physical or environmental

2 effects. It does not appear so.

3 Jump in if anybody thinks I'm  
4 going astray here.

5 The fifth, whether the alleged  
6 difficulty is self-created, which is  
7 relevant but not determinative. Of  
8 course this is self-created.

9 Having gone through the balancing  
10 tests, does the Board have a motion  
11 of some sort regarding this application?

12 MR. EBERHART: I'll make a motion  
13 for approval.

14 MR. MASTEN: I'll second it.

15 CHAIRMAN SCALZO: We have a motion  
16 for approval from Mr. Eberhart. We have  
17 a second from Mr. Masten.

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

20 MS. JABLESNIK: Mr. Eberhart?

21 MR. EBERHART: Yes.

22 MS. JABLESNIK: Mr. Hermance?

23 MR. HERMANCE: Yes.

24 MS. JABLESNIK: Mr. Masten?

25 MR. MASTEN: Yes.

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MS. JABLESNIK: Ms. Rein?

MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. CONTRERAS: Thank you.

(Time noted: 7:13 p.m.)

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

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I further certify that I am not  
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*Michelle Conero*  
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MICHELLE CONERO

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

MICHAEL & STEPHANIE WAY  
8 Chads Ford Lane, Newburgh  
Section 19; Block 4; Lot 15  
R-2 Zone

----- X

Date: October 24, 2024  
Time: 7:13 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVES: MICHAEL WAY &  
STEPHANIE WAY

----- X

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

2 CHAIRMAN SCALZO: Our second  
3 applicant this evening is Michael and  
4 Stephanie Way on 8 Chads Ford Lane,  
5 Newburgh seeking an area variance of the  
6 minimum rear yard setback to construct a  
7 14 by 24 foot pool deck.

8 Do we have mailings on this,  
9 Siobhan?

10 MS. JABLESNIK: This applicant sent  
11 40 letters.

12 CHAIRMAN SCALZO: 40. That's quite  
13 a bit.

14 Who do we have?

15 MS. WAY: I'm Stephanie Way.

16 MR. WAY: Good evening. Mike Way.

17 CHAIRMAN SCALZO: Folks, very nice  
18 to see you here. Glad you made it out.  
19 If I have captured what it is that you're  
20 looking to do in that one stunning  
21 sentence, we can move on. If you have  
22 any flavor you want to add to that, we  
23 can do that, too.

24 MR. WAY: You got it.

25 CHAIRMAN SCALZO: All right. I

2 actually drove by myself this evening and  
3 saw a couple kids throwing the ball in  
4 the driveway. I see what you're looking  
5 to do. The sun was setting and it was  
6 right in my eyes, so I couldn't see the  
7 yard that well.

8 I don't have any comments or  
9 questions really. I know what you're  
10 trying to do. Coming in and out of a  
11 pool on a ladder is a challenge. Anyway,  
12 I have nothing.

13 Ms. Rein?

14 MS. REIN: No.

15 CHAIRMAN SCALZO: Mr. Masten?

16 MR. MASTEN: No.

17 CHAIRMAN SCALZO: Mr. Hermance?

18 MR. HERMANCE: I have nothing.

19 CHAIRMAN SCALZO: Mr. Eberhart?

20 MR. EBERHART: I have nothing.

21 CHAIRMAN SCALZO: At this point I'm  
22 going to open it up to any members of the  
23 public that wish to speak about this  
24 application. Is there anyone here that  
25 wants to speak about the Michael and

2 Stephanie Way application?

3 (No response.)

4 CHAIRMAN SCALZO: Okay. It might  
5 be an early night.

6 MR. DONOVAN: Mr. Chairman, can I  
7 ask a question? Does anyone know how  
8 this got to be named Chads Ford Lane?  
9 The reason I ask --

10 CHAIRMAN SCALZO: You have a friend  
11 named Chads Ford.

12 MR. DONOVAN: I do not. I do not.  
13 I have an interest in the American  
14 Revolution.

15 So the Battle of Brandywine Creek  
16 fought in September of 1777 was adjacent  
17 to Chads Ford. It was a horrible defeat  
18 for the Americans and the British ended  
19 up in Philadelphia a couple weeks later.  
20 I was there, Longwood Gardens. I don't  
21 know if you guys are familiar with that.  
22 It has nothing to do with anything. I  
23 was fascinated with the fact that it's  
24 named Chads Ford.

25 CHAIRMAN SCALZO: I didn't realize



2 Brandywine was part of that as well.

3 MS. REIN: Dave, you were there?

4 MR. DONOVAN: I walked the  
5 battlefield.

6 CHAIRMAN SCALZO: You guys are  
7 taking home something special tonight.

8 MS. WAY: We didn't know that  
9 either.

10 MS. JABLESNIK: Maybe the guy who  
11 did the subdivision is a huge history  
12 buff.

13 MR. DONOVAN: Could be. I don't  
14 know.

15 CHAIRMAN SCALZO: Think about your  
16 next party and all the great conversation  
17 that's coming out of this.

18 Does anyone from the public wish to  
19 speak about this application?

20 (No response.)

21 CHAIRMAN SCALZO: No. You've got  
22 to have fun at these meetings.

23 One last look at the Board.

24 MS. REIN: I'm good.

25 CHAIRMAN SCALZO: Very look. I'll

2 look to the Board for a motion to close  
3 the public hearing.

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

6 MS. REIN: I'll second it.

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

10 MR. EBERHART: Aye.

11 MR. HERMANCE: Aye.

12 CHAIRMAN SCALZO: Aye.

13 MR. MASTEN: Aye.

14 MS. REIN: Aye.

15 CHAIRMAN SCALZO: Those opposed?

16 (No response.)

17 CHAIRMAN SCALZO: Very good.

18 Counsel, this is a Type 2 action  
19 under SEQRA?

20 MR. DONOVAN: That is correct, Mr.  
21 Chairman.

22 CHAIRMAN SCALZO: You just heard us  
23 go through the five factors. We're going  
24 to do the five for you, too.

25 The first one, whether or not the

2 benefit can be achieved by other means  
3 feasible to the applicant. Going up and  
4 down a ladder to get in the pool is a  
5 little tough. If you look at the  
6 orientation of the deck on the survey  
7 sketch, I know what it is, it's not  
8 really pushing it further back.

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

12 MS. REIN: No.

13 MR. MASTEN: No.

14 CHAIRMAN SCALZO: You might see it  
15 from the street and maybe the one  
16 neighbor behind. As you come up Chads  
17 Ford Lane, it's sitting so high, you  
18 won't see a thing.

19 The third, whether the request is  
20 substantial. Perhaps by the numbers it  
21 is, but really when you look at the way  
22 the lot is laid out, it does not seem so.

23 Fourth, whether the request will  
24 have adverse physical or environmental  
25 effects.

2 MR. EBERHART: No.

3 MR. HERMANCE: No.

4 MR. MASTEN: No.

5 MS. REIN: No.

6 CHAIRMAN SCALZO: It does not  
7 appear so.

8 The fifth, whether the alleged  
9 difficulty is self-created, which is  
10 relevant but not determinative. Of  
11 course it's self-created.

12 Having gone through the balancing  
13 tests, does the Board have a motion of  
14 some sort?

15 MS. REIN: I'll make a motion to  
16 approve.

17 MR. HERMANCE: I'll second.

18 CHAIRMAN SCALZO: We have a motion  
19 for approval from Ms. Rein. We have a  
20 second, I believe it was Mr. Hermance.

21 MR. HERMANCE: Yes.

22 CHAIRMAN SCALZO: Can you roll on  
23 that, please, Siobhan.

24 MS. JABLESNIK: Mr. Eberhart?

25 MR. EBERHART: Yes.

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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 are approved. Go and take that  
colonial United States knowledge with  
you.

MR. WAY: Thank you.

MS. WAY: Thank you very much.

(Time noted: 7:18 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 31st day of October 2024.

*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

KURT E. JOHNSON  
40 Old South Plank Road, Newburgh  
Section 52; Block 1; Lot 7  
R-1 Zone

----- X

Date: October 24, 2024  
Time: 7:18 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: KURT E. JOHNSON

----- X

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

2 CHAIRMAN SCALZO: Our next  
3 applicant this evening is Kurt Johnson,  
4 40 Old South Plank Road. Mr. Johnson is  
5 seeking an interpretation of the  
6 ordinance. The Code Compliance  
7 Department issued a notice of violation  
8 for building a dock without a permit.

9 Siobhan, do we have mailings on  
10 this?

11 MS. JABLESNIK: This applicant sent  
12 out 29 letters.

13 CHAIRMAN SCALZO: 29 letters. Very  
14 good.

15 Do we have anyone here this evening  
16 that is --

17 MR. JOHNSON: Kurt Johnson.

18 CHAIRMAN SCALZO: Mr. Johnson.  
19 Very nice. I don't want to say it's  
20 rare, but we don't get interpretations  
21 nearly as much as we get applications,  
22 people asking for forgiveness or  
23 permission. Here we are, we have  
24 somebody looking for an interpretation.

25 MR. JOHNSON: Well, the basic point



2 was that the violation was for building a  
3 deck. What we really were doing was  
4 putting a dock out. There was no  
5 requirement that I saw in the code  
6 requiring a building permit for a dock.

7 CHAIRMAN SCALZO: Okay.

8 MR. JOHNSON: It seems very clear  
9 it isn't required. Likewise, if it's not  
10 required under the municipal ordinance,  
11 it's not required under the uniform code  
12 either.

13 CHAIRMAN SCALZO: That's certainly  
14 an interesting spin. My interpretation  
15 of this, and I see where the -- I visited  
16 the site. Your deck or dock, tomato,  
17 tomatoe, whatever you'd like to call it,  
18 is a structure that is sitting upon  
19 something that needs to be built to a  
20 code that can support people. The only  
21 way for you to ensure that that's  
22 happening is to get a permit and have the  
23 Building Department inspect these types  
24 of structures so that they are safe.

25 Now, if it was a floating dock, I

2 don't think you'd be standing here. In  
3 this instance, you're in the ground out  
4 there.

5 MR. JOHNSON: No. It's built on  
6 cribs. It's a dock that sits on cribs --

7 CHAIRMAN SCALZO: Okay.

8 MR. JOHNSON: -- which are  
9 basically just wooden structures filled  
10 with stone to keep them in place.

11 MR. DONOVAN: Mr. Chairman, if I  
12 can for a second. We have, if I read  
13 this correctly, two things going on.  
14 One, there's a request for an  
15 interpretation of 185.48-3. Correct?

16 MR. JOHNSON: Correct.

17 MR. DONOVAN: Is there also a  
18 request for an interpretation of Section  
19 71 of the Town Code?

20 MR. JOHNSON: I'm not familiar.

21 MR. DONOVAN: 71 is, I think, part  
22 of the violation that was written which  
23 requires you to get a building permit.

24 MR. JOHNSON: No. There's no  
25 request with respect to that. It's only

2 a request with respect to the stop work  
3 order.

4 MR. DONOVAN: It's a matter of  
5 jurisdiction. This Board has  
6 jurisdiction over Chapter 185, to issue  
7 an interpretation under 185. We have no  
8 authority to issue an interpretation to  
9 any other part of the code.

10 The Building Department, Mr.  
11 Mattina, is here. The stop work order  
12 doesn't seem to impact or rely upon  
13 section 185-48.3. Correct, Joe?

14 MR. MATTINA: Well --

15 MR. DONOVAN: Not to put you on the  
16 spot. It looks like -- not you  
17 personally -- Code Compliance issued the  
18 remedy based upon a violation of Section  
19 105.2, building permits, and also Code  
20 Section 71-8, neither of which this Board  
21 has jurisdiction over.

22 MR. MATTINA: Well, that's not how  
23 I understand it from the Town Attorney.  
24 The Town Attorney says you have  
25 jurisdiction over the stop work order

2 since it's in Town Municipal Code 71.

3 MR. DONOVAN: If it's a stop work  
4 order that has to do with -- let's go to  
5 the interpretations. Joe, take a look at  
6 the code as it relates to interpretations.  
7 I have not had a conversation with the  
8 Town Attorney on this issue. Section  
9 185-54 A, powers and duties of the  
10 ZBA relative to interpretations, to  
11 determine on appeal, the Board  
12 requires a decision or determination  
13 made by an administrative official on  
14 the following matters. The meaning  
15 of any portion of the text of this  
16 chapter, Section 185, or of any condition  
17 or requirement specified or made  
18 under the provisions of this chapter.  
19 This chapter being Section 185 of the  
20 Zoning which would cover 185-48.3,  
21 but not the other two sections that I  
22 cited before.

23 MR. JOHNSON: It's my understanding  
24 that this was 185 only, but I do see the  
25 A and the B. There's a period after the

2 actual "Please take notice." I don't  
3 know what the A and the B are there for.

4 MR. DONOVAN: I think those are the  
5 allegations, working without a permit.

6 MR. JOHNSON: Yeah, but it's the  
7 violations observed on the parcel are as  
8 follows. It was observed on 8/27/24 that  
9 work in progress without the required  
10 building permit and no application was  
11 submitted. The work being performed was  
12 rebuilding a deck adjoined to a new dock  
13 being built out over the water. Besides  
14 local and state codes governing  
15 construction permits, approval from the  
16 NYS DEC, Town Zoning Board and an  
17 engineer's design may be required.  
18 There's a period at that point.

19 MS. REIN: Was there a preexisting  
20 dock?

21 MR. JOHNSON: Yes. Long ago. Long  
22 ago.

23 CHAIRMAN SCALZO: Does this dock  
24 come out in the winter?

25 MR. JOHNSON: The point is so it

2 won't have to come out. It can come out.  
3 The idea of the crib is so you don't have  
4 to remove it every year. The one that  
5 was there before unfortunately got  
6 demolished one of the winters. Not this  
7 immediate past winter, but the winter  
8 before that.

9 CHAIRMAN SCALZO: The cribbing that  
10 you're discussing, is there a standard  
11 design for that?

12 MR. JOHNSON: Well, it's basically  
13 a piece of plywood, four posts coming up,  
14 tied with boards going around it to hold  
15 rock.

16 CHAIRMAN SCALZO: Okay. And that  
17 can sustain what type of load?

18 MR. JOHNSON: They're 4 by 4s.

19 CHAIRMAN SCALZO: Okay. So I think  
20 I'm going to go back to the comments from  
21 the Building Department for an engineer's  
22 certification of what it is you're  
23 building can hold people. Not that  
24 you're going to have eighteen people  
25 dancing on your deck, but are you sure

2 they could if they wanted to?

3 MR. JOHNSON: I don't think it  
4 would hold that many people. Other than  
5 that, yeah, it's solid.

6 CHAIRMAN SCALZO: All right.

7 MR. JOHNSON: I understand.

8 CHAIRMAN SCALZO: I'm a  
9 professional engineer, that's why I'm  
10 asking you these pointed questions. As  
11 an engineer, there's a public safety  
12 factor. Any building structure needs to  
13 be built in accordance with standards.  
14 Standards are developed to preserve life  
15 and limb. What I'm getting out of this  
16 is that's not what you did.

17 MR. JOHNSON: Well, I'm not sure  
18 that that's totally accurate. I mean --

19 CHAIRMAN SCALZO: I'd love to hear  
20 your interpretation of where I'm wrong.

21 MR. JOHNSON: Well, I mean, what I  
22 did do was look for a crib -- crib plans  
23 and cribbing diagrams and cribbing  
24 information.

25 CHAIRMAN SCALZO: Based on New York

2 State standards or is this Building Code  
3 standards? Where did you get this  
4 information?

5 Actually, I'm sorry. Let me back  
6 up. We'll get to that section a little  
7 bit later, because I think you and I  
8 could go back and forth probably for  
9 another twenty minutes.

10 Let me open it up to the other  
11 Members of the Board for any questions  
12 that they may have. I think you get an  
13 idea of my position here and the way I'm  
14 looking at this. It's a safety factor to  
15 me, which I don't know that -- again, it  
16 might -- it felt fine when I walked on  
17 it. I don't know anything more than  
18 that.

19 I'm going to go down to Ms. Rein.

20 MS. REIN: I agree with you. I  
21 have no questions.

22 CHAIRMAN SCALZO: Mr. Masten?

23 MR. MASTEN: Not really right at  
24 this time.

25 CHAIRMAN SCALZO: Mr. Hermance?



2 MR. HERMANCE: I think the point  
3 also, if you had obtained a permit and  
4 consulted with the building inspector, a  
5 design could have been agreed upon for  
6 the proper cribbing for design for New  
7 York State live loads and dead loads and  
8 things like that.

9 MR. JOHNSON: I mean, I understand  
10 that that would be possible. As I read  
11 the ordinance, no building permit is  
12 required for a dock.

13 MR. HERMANCE: Maybe a floating  
14 dock perhaps.

15 MR. JOHNSON: Whether it's cribbed  
16 or floating or on pillars, which of  
17 course it is not. I mean, that was the  
18 problem I had the last time, it was on  
19 stakes into the ground. It was a mistake  
20 to leave it in the water.

21 CHAIRMAN SCALZO: Mr. Eberhart?

22 MR. EBERHART: I'm in full  
23 agreement with you, Mr. Chairman. This  
24 is a safety issue. I'm a codes and  
25 standards person. You need a building

2 permit.

3 CHAIRMAN SCALZO: Mr. Mattina.

4 MR. MATTINA: If you go to 185-48.3  
5 I(5), "All such docks and docking or  
6 mooring shall also comply with all other  
7 applicable Town local laws and  
8 ordinances," which kicks it 71-A which  
9 says you need a building permit if it's a  
10 structure.

11 MR. JOHNSON: I think that's a  
12 misreading of that statute. It says all  
13 docks shall conform. It doesn't say the  
14 permit application. There's no  
15 requirement for a permit. It just says  
16 the docks shall conform.

17 MR. MATTINA: That's not true.

18 CHAIRMAN SCALZO: What source are  
19 you relying on for your conformance?  
20 You?

21 MR. JOHNSON: I'm an attorney.  
22 Yes.

23 CHAIRMAN SCALZO: I'm an engineer.  
24 We've established that. So who do you  
25 think could build a better structure, you

2 or me?

3 MR. JOHNSON: You.

4 CHAIRMAN SCALZO: Thank you.

5 MR. JOHNSON: I have no question.

6 CHAIRMAN SCALZO: I hope you see  
7 where I'm going here. There's a safety  
8 issue here, that it needs to be built in  
9 conformance with New York State standards  
10 or Building Code standards. We don't  
11 know that it is.

12 MR. JOHNSON: There's also a  
13 requirement that the statute require it.  
14 As I read that statute, it does not  
15 require it. I can be wrong.

16 CHAIRMAN SCALZO: Which is why  
17 you're here for an interpretation. We  
18 are the Board with the authority to tell  
19 you whether or not you do or not. Again,  
20 I apologize, we should -- you and I could  
21 talk for hours about this.

22 At this point I'd like to open it  
23 up to any members of the public that wish  
24 to comment on this application.

25 (No response.)

2 CHAIRMAN SCALZO: I thought we  
3 would have had one or two at least.

4 All right. I guess we'll --  
5 Counsel, as an interpretation, I don't  
6 know, are we going through --

7 MR. DONOVAN: For an interpretation  
8 you do not go through the five factors.  
9 We've done this on occasion in the past.  
10 The question being asked -- essentially  
11 you're asking the Board -- you want an  
12 interpretation.

13 MR. JOHNSON: That's correct.

14 MR. DONOVAN: The Board could then  
15 say based upon the evidence -- we're not  
16 in court, but based upon the information  
17 submitted, someone could make a motion to  
18 either grant the interpretation as  
19 requested, no building permit is required  
20 for the dock, or you could deny the  
21 interpretation and uphold the  
22 determination of the Building Department.

23 CHAIRMAN SCALZO: Thank you,  
24 Counsel.

25 I'm going to go back to the Board.

2 Discussion here?

3 MS. REIN: No. I think it's all  
4 pretty clear.

5 CHAIRMAN SCALZO: Okay. Mr. Masten,  
6 are you in alignment with that --

7 MR. MASTEN: I'm in alignment.

8 CHAIRMAN SCALZO: -- or are you  
9 on the fence?

10 MR. MASTEN: I'm agreeing.

11 CHAIRMAN SCALZO: Mr. Hermance?

12 MR. HERMANCE: Yes.

13 CHAIRMAN SCALZO: Mr. Eberhart?

14 MR. EBERHART: Yes.

15 CHAIRMAN SCALZO: If you've got a  
16 compelling flip side to that --

17 MR. JOHNSON: No. It was my  
18 interpretation that no building permit  
19 was required. That's why we got here and  
20 that's why I presented it to you to make  
21 the determination.

22 CHAIRMAN SCALZO: Thank you. I  
23 know why you landed here. It had to do  
24 with the Building Department's  
25 interpretation as well.

2 Moving forward, Counsel. Someone  
3 makes a motion for or against the  
4 interpretation?

5 MR. DONOVAN: If I sense the Board  
6 correctly -- I don't vote. If I sense  
7 correctly, you want to uphold the  
8 Building Department's determination. The  
9 motion would be to deny the interpretation  
10 request and uphold the interpretation of  
11 the Building Department that a building  
12 permit is required for the dock.

13 CHAIRMAN SCALZO: Thank you.

14 I'm good with numbers, he's great  
15 with words.

16 MR. DONOVAN: We go to school for  
17 that.

18 MS. REIN: We have to close the  
19 hearing.

20 CHAIRMAN SCALZO: That, too.

21 MR. DONOVAN: You didn't ask me  
22 that.

23 MS. REIN: I'll make a motion to  
24 close the public hearing.

25 MR. EBERHART: I'll second it.

2 CHAIRMAN SCALZO: We have a motion  
3 to close the public hearing from Ms. Rein.  
4 We have a second from Mr. Eberhart.  
5 All in favor.

6 MR. EBERHART: Aye.

7 MR. HERMANCE: Aye.

8 CHAIRMAN SCALZO: Aye.

9 MR. MASTEN: Aye.

10 MS. REIN: Aye.

11 CHAIRMAN SCALZO: Those opposed?

12 (No response.)

13 CHAIRMAN SCALZO: Thank you. I was  
14 getting lost. Very good.

15 So now, having heard the  
16 information provided to us, does the  
17 Board have a motion regarding the  
18 interpretation?

19 MR. HERMANCE: I'll make a motion  
20 to deny the request and uphold the  
21 Town's --

22 CHAIRMAN SCALZO: Code Compliance's  
23 position.

24 MR. EBERHART: I'll second it.

25 CHAIRMAN SCALZO: We have a motion

2 from Mr. Hermance. We have a second from  
3 Mr. Eberhart.

4 Can you roll on that, please,  
5 Siobhan.

6 MS. JABLESNIK: Mr. Eberhart?

7 MR. EBERHART: Yes.

8 MS. JABLESNIK: Mr. Hermance?

9 MR. HERMANCE: Yes.

10 MS. JABLESNIK: Mr. Masten?

11 MR. MASTEN: Yes.

12 MS. JABLESNIK: Ms. Rein?

13 MS. REIN: Yes.

14 MS. JABLESNIK: Mr. Scalzo?

15 CHAIRMAN SCALZO: I'm also  
16 affirmative.

17 Sir, in this instance your  
18 interpretation has been found to be in  
19 favor of the Code Compliance Department.  
20 We see it their way.

21 MR. JOHNSON: Thank you.

22

23 (Time noted: 7:34 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  
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*Michelle Conero*  
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MICHELLE CONERO

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

LITE BRITE SIGNS  
226 Route 17K, Newburgh  
Section 89; Block 1; Lot 65  
IB Zone

----- X

Date: October 24, 2024  
Time: 7:34 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: MARIA ROTUNDO

----- X

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

2 CHAIRMAN SCALZO: Our next  
3 application is Lite Brite Signs, 226  
4 Route 17K in Newburgh. This is a  
5 Planning Board referral for area  
6 variances of square footage for the  
7 proposed total building-mounted signs and  
8 the setback of a freestanding sign for  
9 Sunbelt Rentals.

10 Do we have mailings on this,  
11 Siobhan?

12 MS. JABLESNIK: This applicant sent  
13 15 mailings.

14 CHAIRMAN SCALZO: 15 mailings.  
15 Who do we have with us?

16 MS. ROTUNDO: I'm Maria Rotundo  
17 with Lite Brite Signs. I'm representing  
18 Sunbelt Rentals.

19 CHAIRMAN SCALZO: Very good.  
20 Google Maps turned me around. I was  
21 heading one way and it made me turn into  
22 Corporate plaza and turn around. I had  
23 to take a right into that parking lot. I  
24 definitely didn't like that one bit.

25 Anyway, I know I only mentioned

2 your application in one sentence. We've  
3 been to the site. Is there any flavor  
4 you'd like to add?

5 MS. ROTUNDO: You see how the site  
6 is long and thin, so most of the linear  
7 frontage is to the side elevation because  
8 of the way the property is. The code  
9 goes by linear frontage. We're allowed  
10 60 square feet. We have a huge building.  
11 It's just situated where the short end is  
12 facing the front.

13 CHAIRMAN SCALZO: Yes.

14 MS. ROTUNDO: I think that's a  
15 disadvantage for us with the square  
16 footage.

17 Also, we do have a lot of negative  
18 space with the building-mounted signs.  
19 If you look at sign A, that goes on the  
20 front, which is the short linear  
21 frontage, the 60 linear frontage, sign A.  
22 If you look at the layout of that sign,  
23 you have their logo on top and then the  
24 letters below. If you get rid of all the  
25 negative space, it's really 40 square

2 feet. With the negative space, if you  
3 draw a square around the whole sign --  
4 does that make sense, the way I'm  
5 presenting it?

6 CHAIRMAN SCALZO: That's how the  
7 code interprets it as far as I know.

8 MS. ROTUNDO: I'm just saying that  
9 there is a lot of negative space. If the  
10 Board could just take that into  
11 consideration, that would be great.

12 Also, the monument sign. The  
13 asphalt is right there, so we don't have  
14 much space. We're asking for a 5-foot  
15 setback. We don't think that's going to  
16 be a detriment or a hazard. It's only 12  
17 foot high, the monument.

18 CHAIRMAN SCALZO: I turned around  
19 in the parking lot and I looked at  
20 things. What I didn't pay attention to  
21 is similar signs around you.

22 Did any of you folks?

23 MR. HERMANCE: No, because it sits  
24 back.

25 MS. ROTUNDO: There's not that

2 many. The airport -- I mean, Stewart is  
3 right there. It's kind of not really  
4 built up commercially.

5 CHAIRMAN SCALZO: Just so I  
6 understand what you're saying, you're  
7 looking for your sign to be 5 feet off  
8 the right-of-way?

9 MS. ROTUNDO: 5 foot. It's a  
10 15-foot setback we're supposed to have.  
11 We're asking for 5. If you look at the  
12 depiction, there was a huge sign in the  
13 same area.

14 CHAIRMAN SCALZO: The old landscape  
15 building.

16 MS. ROTUNDO: I'm sorry?

17 CHAIRMAN SCALZO: The old landscape  
18 building.

19 MR. MASTEN: That property, Darrin,  
20 it was a nursery.

21 CHAIRMAN SCALZO: Right.

22 MS. ROTUNDO: I think it's an  
23 improvement. We got rid of the other  
24 structure.

25 CHAIRMAN SCALZO: Okay. I don't

2 have a lot. That's quite the commercial  
3 area, and it's not on top of a lot of  
4 stuff. I really don't -- our sign  
5 ordinance, I think we're trying to take  
6 care of that with the comprehensive plan.  
7 Not that that takes care of your space  
8 that's around the actual sign.

9 I don't have a lot to add to this  
10 application.

11 Mr. Eberhart?

12 MR. EBERHART: No.

13 CHAIRMAN SCALZO: How about you,  
14 Mr. Hermance?

15 MR. HERMANCE: I have nothing. No  
16 questions.

17 CHAIRMAN SCALZO: Mr. Masten?

18 MR. MASTEN: Nothing.

19 CHAIRMAN SCALZO: Ms. Rein?

20 MS. REIN: I'm good.

21 CHAIRMAN SCALZO: Is there anyone  
22 here, members of the public, that wish to  
23 speak about this application?

24 (No response.)

25 CHAIRMAN SCALZO: It does not

2 appear so.

3 All right. Back to the Board.

4 Anything?

5 MR. DONOVAN: This is an Unlisted  
6 action.

7 CHAIRMAN SCALZO: This is an  
8 Unlisted action under SEQRA. If the  
9 Board is going to make a motion to  
10 approve this application, then we need  
11 also a motion for a negative declaration.  
12 You folks understand, fellow Members,  
13 that someone needs to make a motion for a  
14 negative declaration, it needs to be  
15 seconded and we need to move from there.

16 MR. HERMANCE: Do we need to close  
17 the public hearing before that?

18 CHAIRMAN SCALZO: I am dropping the  
19 ball with closing the public hearings  
20 tonight.

21 Thanks, Mr. Hermance.

22 A motion to close the public  
23 hearing.

24 MR. HERMANCE: I'll make that  
25 motion.



2 MR. EBERHART: Second.

3 CHAIRMAN SCALZO: Thank you, Mr.  
4 Hermance. 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. MASTEN: Aye.

10 MS. REIN: Aye.

11 CHAIRMAN SCALZO: Those opposed?

12 (No response.)

13 CHAIRMAN SCALZO: Now we're going  
14 to move on to the Unlisted action under  
15 SEQRA. Again, I'm looking for a motion  
16 for a negative declaration from someone.

17 MS. REIN: I'll make a motion for a  
18 negative declaration.

19 MR. MASTEN: I'll second it.

20 CHAIRMAN SCALZO: We have a motion  
21 for a negative declaration from Ms. Rein.  
22 We have a second from Mr. Masten. All in  
23 favor.

24 MR. EBERHART: Aye.

25 MR. HERMANCE: Aye.

2 CHAIRMAN SCALZO: Aye.

3 MR. MASTEN: Aye.

4 MS. REIN: Aye.

5 CHAIRMAN SCALZO: Those opposed?

6 (No response.)

7 CHAIRMAN SCALZO: Very good. Now  
8 we can move on. In this instance here,  
9 we're still going to go through the five  
10 factors of the balancing tests, the first  
11 one being whether or not the benefit can  
12 be achieved by other means feasible to  
13 the applicant. Sure, if they reduce the  
14 signs. Then they wouldn't get the notice  
15 they're looking to get.

16 Second, if there's an undesirable  
17 change in the neighborhood character or a  
18 detriment to nearby properties.

19 MR. EBERHART: No.

20 MR. HERMANCE: No.

21 MR. MASTEN: No.

22 MS. REIN: No.

23 CHAIRMAN SCALZO: It kind of fits  
24 with exactly what's going on there.

25 The third, whether the request is

2 substantial. By the numbers it is.

3 Are you married to that 5-foot  
4 offset off the right-of-way line?  
5 Without it being up, it's difficult to  
6 see if it would even be anything in the  
7 line of sight for anybody. I believe  
8 you're going to go out past it anyway  
9 when you're trying to pull out of the  
10 parking lot.

11 MS. ROTUNDO: Yeah. It's only 12  
12 foot high. Can I say we could do 10 feet  
13 if there's room without disturbing the  
14 asphalt?

15 CHAIRMAN SCALZO: Okay. Let's get  
16 to the end of this.

17 MS. ROTUNDO: Can we do that, where  
18 we could place it farther back if we can?

19 MR. DONOVAN: The problem that you  
20 run into when you say that, if that can't  
21 happen, then Code Compliance is left with  
22 what do we do with this, because it's  
23 unclear.

24 CHAIRMAN SCALZO: Right.

25 MR. DONOVAN: I would just suggest,

2 if the Board is okay with it, you give  
3 them the 5 feet and request that, if  
4 they can, move it back further. You do  
5 the reverse.

6 MS. ROTUNDO: Yes.

7 CHAIRMAN SCALZO: We're getting a  
8 nod, which Michelle can't pick up.

9 MS. ROTUNDO: I agree. Do you know  
10 that site? What do you think? Have you  
11 been there?

12 MR. MATTINA: I've never been there.

13 MS. ROTUNDO: Okay.

14 CHAIRMAN SCALZO: Counsel, great  
15 idea. Very good.

16 The substantial, that's the one we  
17 just went through.

18 The fourth, whether the request will  
19 have adverse physical or environmental  
20 effects. It does not appear so.

21 The fifth, whether the alleged  
22 difficulty is self-created, which of  
23 course it is.

24 If the Board approves, it shall  
25 grant the minimum variance necessary

2 and may impose reasonable conditions.  
3 I believe this is where Counsel's  
4 wonderful idea of we go ahead and move  
5 with the 5 foot. That's the only one  
6 that concerned me. You folks may feel  
7 differently. We grant it for the 5,  
8 but the applicant has indicated they  
9 will do what they can to kick it back  
10 a little bit.

11 If anybody could --

12 MS. REIN: Let's close it first,  
13 if we're ready.

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

16 CHAIRMAN SCALZO: Did I not do that?  
17 I thought Greg Hermance got me on that.  
18 So the winner that you have is now no  
19 longer a winner. You were one up on  
20 me, Donna.

21 Since the public hearing is closed,  
22 what we're looking at is, does the Board  
23 have a motion of some sort?

24 MR. HERMANCE: I'll make a motion  
25 to approve the 5-foot setback.

2 CHAIRMAN SCALZO: We're approving  
3 them all, Mr. Hermance.

4 MR. HERMANCE: Right. However,  
5 with the request --

6 CHAIRMAN SCALZO: The request for  
7 the right-of-way setback. We will give  
8 the 5. If the applicant can kick it  
9 back, that would be --

10 MR. HERMANCE: To 10.

11 MS. ROTUNDO: Could I mention  
12 something?

13 CHAIRMAN SCALZO: Absolutely.

14 MS. ROTUNDO: If you look at page 2,  
15 we show the line, that it's 25 feet,  
16 the sign, to the white line on the road.

17 CHAIRMAN SCALZO: When you say page  
18 2, I have like thirty pages back.

19 MS. ROTUNDO: All right.

20 CHAIRMAN SCALZO: Oh, I was looking  
21 at the right one to begin with. You're  
22 29 feet from the fog line.

23 MS. ROTUNDO: Is that what that's  
24 called?

25 CHAIRMAN SCALZO: The white line,

2 the fog line.

3 MS. ROTUNDO: Okay.

4 CHAIRMAN SCALZO: 24.

5 MS. ROTUNDO: That's what I'm  
6 saying. There's no hazard if it would  
7 fall.

8 CHAIRMAN SCALZO: Again, the motion  
9 just came out as leave it where it is.  
10 If you could kick it back --

11 MS. ROTUNDO: We could post it. We  
12 could, you know, mark it maybe and Joe  
13 can come look, if you'd like.

14 CHAIRMAN SCALZO: That sounds  
15 wonderful.

16 MR. DONOVAN: He would prefer we  
17 just tell him what to do I think.

18 CHAIRMAN SCALZO: It works the same  
19 way in my house, Joe. So there we have it.

20 I believe we had a motion from  
21 Mr. Hermance. Did we have a second  
22 on that?

23 MS. REIN: I'll second.

24 CHAIRMAN SCALZO: Roll on that,  
25 Siobhan.

2 MS. JABLESNIK: Mr. Eberhart?

3 MR. EBERHART: Yes.

4 MS. JABLESNIK: Mr. Hermance?

5 MR. HERMANCE: Yes.

6 MS. JABLESNIK: Mr. Masten?

7 MR. MASTEN: Yes.

8 MS. JABLESNIK: Ms. Rein?

9 MS. REIN: Yes.

10 MS. JABLESNIK: Mr. Scalzo?

11 CHAIRMAN SCALZO: Yes.

12 The motion is carried. The  
13 variances are approved.

14 Please work with the Building  
15 Department for any adjustments you may  
16 need.

17 MS. ROTUNDO: Okay. Also, I think  
18 -- if you could let me know tonight. If  
19 not, I can call the Planning Board. Do I  
20 go back to the Planning Board now?

21 MS. JABLESNIK: Yes.

22 CHAIRMAN SCALZO: Yes.

23 MS. ROTUNDO: Okay. Thank you.

24 Good night.

25 (Time noted: 7:48 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 31st day of October 2024.

*Michelle Conero*  
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MICHELLE CONERO

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

CAPITAL PROPERTY BUYER, LLC  
  
102 Fern Avenue, Newburgh  
Section 67; Block 8; Lot 2  
R-3 Zone

----- X

Date: October 24, 2024  
Time: 7:48 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: TAYLOR BERG

----- X

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

2 CHAIRMAN SCALZO: Our next  
3 applicant is Capital Property Buyer, LLC,  
4 102 Fern Avenue. They're seeking area  
5 variances of, A, the minimum front yard  
6 setback to keep a multi-level deck built  
7 without permits; and B, the combined side  
8 yards to build a 10 by 20 rear deck.

9 Do we have mailings on this,  
10 Siobhan?

11 MS. JABLESNIK: This applicant sent  
12 46 letters.

13 CHAIRMAN SCALZO: 46.

14 MS. JABLESNIK: Winner, winner.  
15 Not winner.

16 CHAIRMAN SCALZO: Who do we have  
17 with us?

18 MR. BERG: My name is Taylor Berg.  
19 I own Capital Property Buyers.

20 CHAIRMAN SCALZO: That is, in this  
21 instance, your property?

22 MR. BERG: Yup.

23 CHAIRMAN SCALZO: I was just there  
24 today. That's quite the hill. If I've  
25 captured everything that it is you're

2 looking for here in those two sentences,  
3 we can move on. If you want to add some  
4 color commentary, feel free.

5 MR. BERG: No. I think you got it.

6 CHAIRMAN SCALZO: You think I got  
7 it. If I could just remember to close  
8 the public hearings, that would be great.

9 Very good. As I say, I drove by.

10 Let me ask, you just want to keep  
11 that front deck? You want to maybe  
12 replace any bad boards or something like  
13 that? You want to keep it exactly as it  
14 is?

15 MR. BERG: Yeah. So the decks were  
16 built in 1970. I bought the house seven  
17 months ago. I just wanted to replace the  
18 decks. I just wanted to actually redo  
19 them both.

20 CHAIRMAN SCALZO: You're not  
21 enlarging them from what we currently  
22 saw?

23 MR. BERG: No.

24 CHAIRMAN SCALZO: All right. I've  
25 got nothing then.

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Ms. Rein?

MS. REIN: No.

MR. MASTEN: I have nothing.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: You mean you'll just replace the deckboards on the existing deck or are you replacing the structure?

MR. BERG: The structure, too. It was built a long time ago so it's got little 4 by 4s, the steps aren't even.

MR. HERMANCE: You're going to demo that and build one to current codes?

MR. BERG: Yes.

CHAIRMAN SCALZO: Utilizing the same footprint, which gives our Code Compliance guys the opportunity to ensure that it's built to New York State Building Code. That's a great idea.

MR. HERMANCE: That's all I have.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: I have nothing.

CHAIRMAN SCALZO: At this point I'll open it up to any members that want to speak from the public.

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(No response.)

CHAIRMAN SCALZO: One last look at the Board.

(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 from Mr. Masten. We have a second from Ms. Rein. All those in favor.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

CHAIRMAN SCALZO: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Those opposed?

(No response.)

CHAIRMAN SCALZO: This is a Type 2 action under SEQRA, so we are going to go through our five factors, the first one being whether or not the benefit can be

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achieved by other means feasible to the applicant.

MS. REIN: No.

CHAIRMAN SCALZO: Second, if there's an undesirable change to the neighborhood character or a detriment to nearby properties.

MR. EBERHART: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MS. REIN: No.

CHAIRMAN SCALZO: No. It's going to be replaced in kind, just better.

Third, whether the request is substantial. I guess by the numbers you could say so. Because it's preexisting nonconforming, probably not.

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

The fifth, whether the alleged difficulty is self-created, which is relevant but not determinative. It's self-created maybe for the rear deck.

2 The front deck, you inherited that.

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

6 MR. HERMANCE: I'll make a motion  
7 to approve.

8 MR. EBERHART: Second.

9 CHAIRMAN SCALZO: We have a motion  
10 for approval from Mr. Hermance. I think  
11 I heard from Mr. Eberhart.

12 Can you roll on that, please,  
13 Siobhan.

14 MS. JABLESNIK: Mr. Eberhart?

15 MR. EBERHART: Yes.

16 MS. JABLESNIK: Mr. Hermance?

17 MR. HERMANCE: Yes.

18 MS. JABLESNIK: Mr. Masten?

19 MR. MASTEN: Yes.

20 MS. JABLESNIK: Ms. Rein?

21 MS. REIN: Yes.

22 MS. JABLESNIK: Mr. Scalzo?

23 CHAIRMAN SCALZO: Yes.

24 The motion is carried and the  
25 variances are approved. Good luck, sir.



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MR. BERG: I've dealt with a lot of zoning boards and building departments. You are really organized and it was really nice.

CHAIRMAN SCALZO: It's these two. They keep me straight.

MR. BERG: Thanks.

MR. DONOVAN: You can't imagine how much that means today.

MS. JABLESNIK: It really does. I will go to work tomorrow.

(Time noted: 7:54 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 31st day of October 2024.

*Michelle Conero*  
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MICHELLE CONERO

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

CHRISTOPHER LLORAY  
111 North Dix Avenue, Newburgh  
Section 71; Block 8; Lot 4.2  
R-3 Zone

----- X

Date: October 24, 2024  
Time: 7:54 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: CHRISTOPHER LLORAY

----- X

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

2 CHAIRMAN SCALZO: Our next  
3 applicant is Christopher Lloray, I hope  
4 I said that right, --

5 MR. LLORAY: Yes.

6 CHAIRMAN SCALZO: -- at 111 North  
7 Dix Avenue, seeking an area variance of  
8 maximum square footage of accessory  
9 structures to build a 24 by 24 addition  
10 onto an existing 14 by 24 accessory  
11 building.

12 Do we have mailings on this,  
13 Siobhan?

14 MS. JABLESNIK: This applicant sent  
15 54 letters. He is the winner.

16 CHAIRMAN SCALZO: I think he might  
17 have done it twice.

18 MS. JABLESNIK: Poor guy.

19 CHAIRMAN SCALZO: I think you did.  
20 Funny story. If anybody got it two times  
21 here, that's why.

22 I happened to drive by today. It  
23 happens to be very close to my house. I'm  
24 going to guess that you want to go on  
25 that concrete pad that's already there.

2 MR. LLORAY: Unfortunately my  
3 cousin did that.

4 CHAIRMAN SCALZO: Okay. The  
5 building is not up yet, you know. Who  
6 knows. Maybe you like basketball and you  
7 wanted a concrete basketball court with  
8 the thing sticking up out of it. I  
9 really don't have much to say about that.  
10 It's not like hugging the side yard or  
11 anything like that.

12 I'm going to start on my right  
13 side. Mr. Eberhart?

14 MR. EBERHART: I have nothing.

15 CHAIRMAN SCALZO: How about you,  
16 Mr. Hermance?

17 MR. HERMANCE: It's not really  
18 visible.

19 CHAIRMAN SCALZO: Well, it is but  
20 it's not. It's kind of -- you almost  
21 need to have business in that  
22 neighborhood to be on your street.

23 Mr. Masten?

24 MR. MASTEN: I have no questions.

25 CHAIRMAN SCALZO: Ms. Rein?

2 MS. REIN: No. Nothing.

3 CHAIRMAN SCALZO: Are there any  
4 members of the public that wish to speak  
5 about this application?

6 (No response.)

7 CHAIRMAN SCALZO: No. I'll look to  
8 the Board for a motion to close the  
9 public hearing.

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

12 MS. REIN: Second.

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

16 MR. EBERHART: Aye.

17 MR. HERMANCE: Aye.

18 CHAIRMAN SCALZO: Aye.

19 MR. MASTEN: Aye.

20 MS. REIN: Aye.

21 CHAIRMAN SCALZO: Those opposed?

22 (No response.)

23 CHAIRMAN SCALZO: This is a Type 2  
24 action under SEQRA. You've heard us all  
25 night. The first one, whether or not the

2 benefit can be achieved by other means  
3 feasible to the applicant.

4 MS. REIN: No.

5 CHAIRMAN SCALZO: The second, if  
6 there's an undesirable change in the  
7 neighborhood character or a detriment to  
8 nearby properties. It does not appear  
9 so. I think once the garage is up, some  
10 of the things will end up in the garage.

11 Third, whether the request is  
12 substantial. By the numbers, I suppose  
13 with the side yard. This is not a very  
14 big garage.

15 Fourth, whether the request will have  
16 adverse physical or environmental effects.

17 MR. EBERHART: No.

18 MR. HERMANCE: No.

19 MR. MASTEN: No.

20 MS. REIN: No.

21 CHAIRMAN SCALZO: I don't think so.

22 The fifth, whether the alleged  
23 difficulty is self-created, which of  
24 course it is.

25 With regard to the character of the

2 neighborhood, there are a lot of detached  
3 garages in that area. Again, it wouldn't  
4 be out of character.

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

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

10 MR. HERMANCE: Second.

11 CHAIRMAN SCALZO: We have a motion  
12 for approval from Ms. Rein. We have a  
13 second from Mr. Hermance.

14 Can you roll on that, please, Siobhan.

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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Christopher Lloray

variances are approved. Good luck.

MR. LLORAY: Thank you for your time.

(Time noted: 8:00 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 31st day of October 2024.

*Michelle Conero*

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MICHELLE CONERO

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

RICHARD CAVELLERO  
11 Copper Rock Road, Walden  
Section 125; Block 1; Lot 42  
R-1 Zone

----- X

Date: October 24, 2024  
Time: 8:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVES: RICHARD & MARISSA  
CAVELLERO

----- X

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

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CHAIRMAN SCALZO: Our next applicant this evening is Richard Cavellero, 11 Copper Rock Road, seeking area variances of maximum building height, square footage and storage of vehicles to build a 36 foot by 40 foot by 25 foot high detached accessory building.

Siobhan, do we have mailings on this?

MS. JABLESNIK: This applicant sent 30 letters.

CHAIRMAN SCALZO: Very good. Who do we have with us?

MR. CAVELLERO: Richard Cavellero and my wife Marissa.

CHAIRMAN SCALZO: Very nice to meet you. I'm glad you guys made it out tonight. I was through your neighborhood. It's a great neighborhood.

MS. CAVELLERO: I agree.

CHAIRMAN SCALZO: It's very nice. Relatively new, too. Probably within ten years. Something like that.

2 As I saw, you already have a three-  
3 car garage on your house. I saw a couple  
4 of cars in the driveway. I see where you  
5 want to do this.

6 I also drove around your neighborhood.  
7 What you're asking for, I don't know if  
8 you've noticed this, no one else has that.  
9 I think the biggest shed I saw in that  
10 entire neighborhood was probably a 12 by 15  
11 shed, if that. This thing is like house  
12 size. That's just my observation.

13 MS. CAVELLERO: He would live in  
14 there with all of his cars.

15 CHAIRMAN SCALZO: I read the  
16 application. The application indicates  
17 that you inherited some classic vehicles  
18 and you're just looking for protection of  
19 those.

20 MR. CAVELLERO: Right.

21 CHAIRMAN SCALZO: Okay. I stated  
22 that one sentence of what you're looking  
23 for. We had a little bit of dialogue  
24 back and forth. Do you have anything  
25 that you want to add before I open it up

2 to the Board Members?

3 MR. CAVELLERO: We have a three-car  
4 garage now. The first bay is shallow.  
5 It's mostly for storage. You can't fit a  
6 large vehicle, or any kind of vehicle.  
7 The other two bays, one is for her and  
8 one for me. We're looking for more  
9 storage.

10 MS. CAVELLERO: He has collectible  
11 vehicles as well. Just having that  
12 storage on our property rather than  
13 having to, you know, go and put it in  
14 storage elsewhere makes more sense.

15 CHAIRMAN SCALZO: I wish I could  
16 collect classic cars. I understand the  
17 need for space. Everybody's got stuff.

18 MR. CAVELLERO: Right.

19 CHAIRMAN SCALZO: People should be  
20 forced to move every five years so they  
21 can clear out.

22 Anyway, that's neither here nor  
23 there. As I say, my observation of the  
24 neighborhood was that no one else has  
25 what you're asking for. That's where I'm

2 sitting.

3 I'm going to look down to Mr.  
4 Eberhart. Mr. Eberhart, do you have any  
5 comments regarding this application?

6 MR. EBERHART: You make a very good  
7 point. It would be somewhat out of  
8 character with the neighborhood. My  
9 expectation is -- how many letters were  
10 sent out again?

11 MS. JABLESNIK: 30. 30 letters.

12 MR. EBERHART: We don't have anyone  
13 here.

14 CHAIRMAN SCALZO: I'm glad you said  
15 that, Mr. Eberhart. The Zoning Board  
16 office did receive some phone calls.  
17 Then, I don't know, a few years back  
18 there was, I don't know if it was a  
19 formal complaint or just an observation  
20 regarding -- I guess you like to do the  
21 work on the cars yourself.

22 MR. CAVELLERO: Not all the time.  
23 It's a hobby basically.

24 CHAIRMAN SCALZO: The couple of  
25 calls that did come in were that you were

2 working on cars an awful lot in that  
3 driveway.

4 That being said, we haven't opened  
5 it up to the public yet. There has been  
6 a little bit of noise, I'll say, coming  
7 into the ZBA office.

8 MR. EBERHART: Okay. I want to  
9 hear if there are any comments.

10 CHAIRMAN SCALZO: Thanks, Mr.  
11 Eberhart. That's the beauty of asking my  
12 fellow Board Members what's going on.  
13 I'm a ten-year Board Member and I've  
14 been, for other applications, accused of  
15 being the no guy.

16 When it's referred to as an  
17 accessory structure, the height and/or  
18 maximum building height -- Mr. Mattina,  
19 help me out -- is 15 feet in this  
20 instance?

21 MR. MATTINA: Yes.

22 CHAIRMAN SCALZO: The applicant is  
23 looking for 25.

24 MR. CAVELLERO: We're going to take  
25 5 foot off the top. We'll omit the

2 cupola.

3 CHAIRMAN SCALZO: The cupola?

4 MR. CAVELLERO: Yes.

5 CHAIRMAN SCALZO: You're looking at  
6 20 then. The cupola was 5? I thought it  
7 was 3. Okay. I always get nervous when  
8 an applicant comes in with a building  
9 that that's high, because the ability to  
10 put a second story -- not a second story,  
11 a second floor can end up being habitable  
12 space, and that ends up being an issue.

13 The other thing that's nice about a  
14 garage that has height inside is that you  
15 can put a lift in. I get nervous when I  
16 see building heights that are up there.

17 Again Mr. Eberhart, I know you  
18 didn't think you were making me think of  
19 other things, but you just made me think  
20 of other things as you were asking your  
21 question.

22 MS. CAVELLERO: If I can, --

23 CHAIRMAN SCALZO: This is your  
24 application.

25 MS. CAVELLERO: -- the height and



2 being able to build the structure so that  
3 we can store all of our Christmas items  
4 and things that we aren't able to  
5 currently store in our garage with our  
6 growing family. All of the kid items,  
7 bikes and what have you. So being able  
8 to go upwards with like storage of bins  
9 and things, just trying to think ahead of  
10 our organization.

11 CHAIRMAN SCALZO: I understand.  
12 Everybody has stuff.

13 MS. CAVELLERO: Too much.

14 MR. CAVELLERO: We have three kids.  
15 More stuff.

16 CHAIRMAN SCALZO: I got you.  
17 Mr. Hermance?

18 MR. HERMANCE: That was going to be  
19 my question. Are you planning on putting  
20 in a lift?

21 MR. CAVELLERO: It's strictly for  
22 storage of classic vehicles.

23 CHAIRMAN SCALZO: I'll tell you  
24 what, Mr. Hermance. The applicant has  
25 already stated that they are not looking

2 for the full 25 now. I have to look at  
3 the plan here, how far down -- it says  
4 here 21.2 3/4.

5 MR. CAVELLERO: That's to the peak.

6 CHAIRMAN SCALZO: That's to the  
7 peak. Now we're looking at 21.2 3/4  
8 instead of 25.

9 Mr. Hermance, just for your --

10 MR. MATTINA: If I may.

11 CHAIRMAN SCALZO: Mr. Mattina.

12 MR. MATTINA: I just learned how to  
13 count. 36 by 40 is 1,440 square feet,  
14 not 1,400. I forgot a 4.

15 CHAIRMAN SCALZO: What you're  
16 saying is that now increases it? It may  
17 have gone up a little bit?

18 MR. MATTINA: It's at 44 percent.

19 MS. CAVELLERO: 44 percent what?

20 MR. MATTINA: For the variance. 44  
21 over what the code allows.

22 CHAIRMAN SCALZO: 44 percent over  
23 what's allowed.

24 MR. MATTINA: It went from 40 to  
25 44.

2 CHAIRMAN SCALZO: Thanks, Joe. I  
3 appreciate that.

4 Mr. Hermance, did we finish with  
5 you?

6 MR. HERMANCE: With lowering the  
7 roof, it brings down the percentage for  
8 the height.

9 CHAIRMAN SCALZO: That's correct.

10 MR. MATTINA: Yes.

11 MR. HERMANCE: I'm not going to  
12 figure it out, but -- that's all I had.

13 CHAIRMAN SCALZO: Very good.

14 Mr. Masten, did you get out there  
15 to take a look in that neighborhood?

16 MR. MASTEN: I have.

17 CHAIRMAN SCALZO: It's lovely.

18 MR. MASTEN: Yes. A friend of mine  
19 lost his house up there a couple years  
20 ago to a fire.

21 CHAIRMAN SCALZO: I hope nobody got  
22 hurt.

23 MS. CAVELLERO: No.

24 MR. MASTEN: He just moved back in  
25 in July.

2 CHAIRMAN SCALZO: That's quite a  
3 road leading up in there. I imagine if  
4 they don't get to plowing it in the  
5 winter fast enough, it's quite the ride.

6 MR. CAVELLERO: Up the hill is  
7 impossible.

8 CHAIRMAN SCALZO: Ms. Rein?

9 MS. REIN: I'm just concerned about  
10 how big the structure is. As you said,  
11 it's like another house on the property.

12 CHAIRMAN SCALZO: The footprint is  
13 big. It is.

14 MS. REIN: There's nothing around  
15 there that compares to that. It will  
16 definitely set a precedent and change the  
17 look of the neighborhood.

18 MR. CAVELLERO: It will look nice  
19 when it's done. It's not like we're  
20 building a shanty or something.

21 MS. REIN: I'm sure.

22 CHAIRMAN SCALZO: The neighborhood  
23 would command a nice accessory structure.

24 MR. CAVELLERO: Matching siding and  
25 stone and everything.

2 CHAIRMAN SCALZO: Ms. Rein, any  
3 other questions?

4 MS. REIN: Those are my concerns.

5 MR. MATTINA: The height was 68.3  
6 percent over. It's down to 42 percent.

7 CHAIRMAN SCALZO: Up on one, down  
8 on another.

9 MR. MATTINA: I giveth and I taketh  
10 away.

11 CHAIRMAN SCALZO: A balance right  
12 there.

13 All right. I'm going to open it  
14 up. Are there any members of the public  
15 that wish to speak about this application?

16 MR. BAKER: I'm just a neighbor. I  
17 was coming to get information. I'm very  
18 happy to hear the height is --

19 CHAIRMAN SCALZO: If you could  
20 state your name.

21 MR. BAKER: I'm Matt Baker. I live  
22 two or three houses down. This is my  
23 daughter, Dorothy.

24 CHAIRMAN SCALZO: She's been very  
25 good tonight.

2 MR. BAKER: The first I heard was  
3 the letter.

4 CHAIRMAN SCALZO: You might have  
5 been confused. They put their notice  
6 across the street on the mailbox, not in  
7 front of the house.

8 MS. CAVELLERO: We're used to that.

9 MR. BAKER: The only thing I was  
10 curious about, I know you guys said it's  
11 going to match the siding, are there like  
12 renderings or anything like that? That I  
13 guess was the thing I was curious about.

14 CHAIRMAN SCALZO: The entire  
15 application is online.

16 Did this make it in there?

17 MS. JABLESNIK: Yes.

18 CHAIRMAN SCALZO: Although the  
19 exterior portions, I don't know that they  
20 are shown. Are they?

21 MR. CAVELLERO: They're shown.

22 MS. CAVELLERO: It would be the  
23 same color as the house now with like the  
24 white trim, as well as then we're going  
25 to put the stonework on the bottom and

2 add that to the house to kind of bring it  
3 -- focus it.

4 MR. BAKER: Cool. I was just  
5 curious. The neighbors next door to you,  
6 I know the people just moved in and the  
7 other people moved out. Have you talked  
8 to them at all? What are their thoughts?

9 CHAIRMAN SCALZO: They have an  
10 opportunity to be here.

11 MR. BAKER: Yeah. The neighbors  
12 right next door are like brand new. I  
13 don't know if you guys have had a chance  
14 to talk to them.

15 MS. CAVELLERO: I have. I've  
16 spoken with Sam next door and he speaks  
17 to Vinnie on the other side of us because  
18 it more directly affects them.

19 CHAIRMAN SCALZO: Everybody knows  
20 Vinnie except for me. What's Vinnie's  
21 last name?

22 MS. CAVELLERO: Vincent Biele or --  
23 I think it's Biele. And Samantha. She  
24 just moved in. I don't know her last  
25 name yet. We did speak with them. We

2 wanted to be very open, we knew the  
3 posting was going out, just to make sure  
4 that we're not intruding on anyone's  
5 vision or line of sight, trying to be  
6 really open with that.

7 CHAIRMAN SCALZO: There's a  
8 conservation easement behind you. I  
9 noticed that on the plan.

10 MR. CAVELLERO: Yup.

11 CHAIRMAN SCALZO: Again, I myself,  
12 I struggle with it. Because you're the  
13 first ones that want to do this, what  
14 happens is we, as a Board, need to be  
15 careful with what we do, because once we  
16 set a precedent, everybody wants it and  
17 maybe wants to push the limits a little  
18 more. That's why we kind of walk a fine  
19 line with what we look at.

20 MS. CAVELLERO: Yeah.

21 CHAIRMAN SCALZO: Is there anyone  
22 else from the public that wishes to speak  
23 about this application?

24 (No response.)

25 CHAIRMAN SCALZO: I'm going to go



2 back to the Board. Any other discussion?

3 MR. MASTEN: I have nothing.

4 MS. REIN: No.

5 CHAIRMAN SCALZO: You just heard in  
6 the application before, I was asking the  
7 applicant if they were -- I said married  
8 to a certain number they were going to be  
9 offset from the right-of-way line to the  
10 sign. As a Board, we can grant the  
11 minimum variance that we think is  
12 appropriate. Obviously you're asking for  
13 what you're asking for, which is a three-  
14 car garage that's 21 plus or minus feet  
15 off the ground, even though you mentioned  
16 that it's going to have an aesthetically  
17 pleasing exterior. What's the smallest  
18 you can live with? That is tremendous in  
19 size.

20 MR. CAVELLERO: I know I would want  
21 to keep the width. I'm negotiable on the  
22 length, the depth of it.

23 CHAIRMAN SCALZO: Okay. Throw a  
24 number at me.

25 MR. CAVELLERO: If it's 40 by 36

2 now, what do you think?

3 MS. CAVELLERO: I'll pull it up on  
4 the plans.

5 MR. CAVELLERO: Would 30 feet be --

6 CHAIRMAN SCALZO: I don't know.

7 Mr. Mattina, help me out. I don't  
8 have my calculator. What percentage  
9 would we be looking at?

10 You're still looking to maintain 40  
11 foot in the front?

12 MR. CAVELLERO: Correct.

13 MS. CAVELLERO: Correct.

14 CHAIRMAN SCALZO: Instead of the  
15 depth being --

16 MR. CAVELLERO: 36.

17 CHAIRMAN SCALZO: -- 36.

18 MR. CAVELLERO: Come down to 30.

19 CHAIRMAN SCALZO: You'd come down  
20 to 30?

21 MR. CAVELLERO: Lower the roof a  
22 foot.

23 CHAIRMAN SCALZO: That sounds like  
24 1,200 square foot to me.

25 MR. MATTINA: Yup.

2 CHAIRMAN SCALZO: I can do that  
3 without a calculator.

4 MR. MATTINA: That allows you 200  
5 square foot over, which would be 20  
6 percent.

7 CHAIRMAN SCALZO: In that instance,  
8 if they reduced the rear by 6 feet, they  
9 would only be 200 square feet over?

10 MR. MATTINA: Correct.

11 CHAIRMAN SCALZO: That's it.

12 MR. MATTINA: They're allowed 1,000.

13 CHAIRMAN SCALZO: You're allowed  
14 1,000 and you're at 1,200 if you reduce  
15 it to 40 by 30.

16 You talked about coming down in  
17 height also.

18 MR. CAVELLERO: We can go down if  
19 we had to.

20 MS. CAVELLERO: We would have to  
21 get that worked out again.

22 CHAIRMAN SCALZO: There's structural  
23 information that needs to be adjusted for  
24 stuff like that. 40 by 30. What's a  
25 typical garage width?

2 MR. CAVELLERO: Ours right now I  
3 think is like --

4 MS. CAVELLERO: Don't look at me.

5 MR. CAVELLERO: I measured it a  
6 hundred times. I think it was like 29  
7 wide.

8 CHAIRMAN SCALZO: Let's say it's  
9 10, 10 and 10 for the doors.

10 MR. CAVELLERO: Side to side.

11 CHAIRMAN SCALZO: What do you need  
12 between them?

13 MR. CAVELLERO: The plans I believe  
14 was 7.5, I believe.

15 CHAIRMAN SCALZO: If you were 10,  
16 10 and 10 and then you had two exterior  
17 walls, say they're a foot -- lets say two  
18 for the sake of easy math. You've got 30  
19 feet plus 4 would be 34. 1.5 and 1.5 is  
20 3.

21 MR. CAVELLERO: I just need room  
22 between the doors to put a garage opener  
23 on the wall.

24 CHAIRMAN SCALZO: I think you see  
25 where I'm going. I'm whittling you down

2 just to see how far I can push you.  
3 That's not it, though. I'm trying to  
4 maintain -- I don't even live in your  
5 neighborhood. I admire it. I'm trying  
6 to maintain some of the character of your  
7 neighborhood.

8 MR. CAVELLERO: Of course.

9 CHAIRMAN SCALZO: Your neighbors  
10 had an opportunity to come here and  
11 speak. Like I say, we also don't want to  
12 create --

13 MR. CAVELLERO: A precedent.

14 CHAIRMAN SCALZO: We don't want to  
15 set a precedent. We get ourselves in  
16 trouble if somebody else comes in asking  
17 for exactly what you did and we say no.

18 What's the latest numbers on the  
19 table?

20 MS. CAVELLERO: Were you writing  
21 any of that down?

22 MR. MATTINA: 1,200 would be 200  
23 square foot over, which would be 20  
24 percent at 40 times 30.

25 CHAIRMAN SCALZO: You're still

2 looking at 40 across the front. The  
3 biggest I could whittle you down and  
4 still keep stuff for the button would be  
5 37 across the front, 2 foot on either  
6 side, that would be 34, and then two  
7 center posts at 1.5 half makes 3 more, so  
8 that would be 37. Does that make sense?  
9 Is that something you could live with?

10 MR. CAVELLERO: I'm not having door  
11 openers on the ceiling. They mount to  
12 the side of the door. Picture inside of  
13 a garage. You look at the inside of the  
14 garage door, you look up in the right  
15 corner. I need to have space to mount  
16 it. That's what I'm concerned about. A  
17 lot of houses have conventional openers.

18 CHAIRMAN SCALZO: Mine is loud.

19 MR. CAVELLERO: These ones, they  
20 mount to like the spring and the roller  
21 that are attached to the frame of the  
22 door. There has to be ample space to  
23 mount these things to open and close the  
24 door.

25 CHAIRMAN SCALZO: Okay.

2 MR. HERMANCE: How much room are we  
3 talking?

4 MR. CAVELLERO: Each unit I think  
5 is like 16 inches wide. I could be  
6 wrong. I don't know the specifications.  
7 They're not like 3 feet across. They're  
8 powerful little motors that are mostly  
9 rectangular.

10 MR. HERMANCE: Doesn't the  
11 pulley --

12 MR. CAVELLERO: There's a beam that  
13 goes across and rolls up the cord or  
14 whatever. I'm not a garage door opener  
15 guy.

16 MR. HERMANCE: It's the coil spring.

17 MR. CAVELLERO: It's the coil  
18 spring on the door itself. It mounts to  
19 that rod or pulley. That's what's  
20 functioning the door opening and closing.

21 Before I agree, I just want to make  
22 sure there's ample space to make sure  
23 they work. I might decide to do that in  
24 the future.

25 MS. CAVELLERO: Just like you love

2 our neighborhood, we do too. We don't  
3 plan on going anywhere for a long time.  
4 We want to be able to grow and finish  
5 those things like he wants, like the  
6 garage door openers. He knows what he  
7 wants in the future piece by piece.

8 CHAIRMAN SCALZO: I understand you  
9 completely.

10 Again, just one of the silly quick  
11 numbers. 30 depth. If you were to go  
12 10, 10, 10 for each door, 2 foot at each  
13 end, 4 foot, and then in the middle. 2  
14 foot is a little more. That gets you to  
15 -- that would be 38 instead of the 40  
16 you're asking for, and then you end up  
17 with 1,140 square feet. You're only 140  
18 square feet over.

19 MR. MATTINA: 14 percent.

20 CHAIRMAN SCALZO: There you go.  
21 Now we're getting better. Like I say,  
22 you're -- counsel, kick me when I'm going  
23 wrong here.

24 MR. DONOVAN: I'm a word guy. I  
25 have no idea what you're doing. I have



2 no idea if that building is going to  
3 work. It all sounds great when you play  
4 with numbers.

5 CHAIRMAN SCALZO: I'm looking at  
6 this. You can say, you know, Zoning  
7 Board of Appeals, we like our application  
8 exactly as it's being presented and we  
9 would like you to vote on it that way,  
10 and we will. Or you can say, hey, you  
11 know, I see the hesitation you're  
12 getting, at least out of one Board  
13 Member, and this is what we think we can  
14 do to reduce the size to be more in  
15 character with the neighborhood, still  
16 over what's allowed, but not by much now.

17 MR. CAVELLERO: Can I look at those  
18 plans? I didn't bring my copy.

19 CHAIRMAN SCALZO: Do you want to  
20 look at your application?

21 MR. CAVELLERO: To see the numbers.  
22 I want to see the picture with the door.  
23 I'm sorry. That's what you're referring  
24 to.

25 MS. JABLESNIK: You can rip it.

2 CHAIRMAN SCALZO: While you're  
3 digging out what you're digging out  
4 there, because this is a matter of public  
5 record now, these meeting minutes are  
6 recorded, should we get to that point  
7 where we're granting something or nothing  
8 at all, if you choose to reduce it down  
9 to 1,000 square feet, we want assurances  
10 that you will not be running any  
11 automotive repair shop.

12 MR. CAVELLERO: No. I mean, I have  
13 a hobby on a Saturday or something. Can  
14 I do that?

15 MS. CAVELLERO: It's not for  
16 business.

17 CHAIRMAN SCALZO: You and all your  
18 friends and their kids and --

19 MR. CAVELLERO: You're talking  
20 about 38? I'm trying to picture in my  
21 mind what you're referring to.

22 CHAIRMAN SCALZO: Each end is 2  
23 feet. Everything is 2, 2 and 2. You  
24 could have it work, and that gives you  
25 38.

2 MR. CAVELLERO: I could live with  
3 that. 2, 2, 2. Yeah, that's fine.

4 CHAIRMAN SCALZO: Do you understand?

5 MR. CAVELLERO: Yeah.

6 CHAIRMAN SCALZO: Thank you.

7 Joe Mattina, are you following  
8 along?

9 MR. MATTINA: Just barely.

10 CHAIRMAN SCALZO: I do not want to  
11 suggest anything that you -- so where I'm  
12 going with this --

13 MS. CAVELLERO: We can ask them to  
14 vote on what you presented originally or  
15 listen to the suggestions.

16 MR. CAVELLERO: The suggestion  
17 would be great.

18 CHAIRMAN SCALZO: I'm not dictating  
19 anything. I'm recognizing that you're in  
20 here asking for a variance because you're  
21 asking for more than what's allowed.  
22 There we have it.

23 The public hearing is still open.  
24 The gentleman in the back with the well-  
25 behaved young lady, are you following

2 along with this as well?

3 MR. BAKER: Yes. She is, too.

4 CHAIRMAN SCALZO: She's great.

5 I've talked a lot. Sorry,  
6 Michelle. This isn't stuff that I  
7 typically say either, so you have to  
8 really work.

9 Because I just brought up a couple  
10 of different things here, does anybody  
11 have --

12 MR. HERMANCENCE: I have a question.

13 CHAIRMAN SCALZO: Sure.

14 MR. HERMANCENCE: With the roof size,  
15 the area of roof is going to be  
16 considerable, are there any stormwater  
17 management requirements for --

18 MR. MATTINA: The residential code  
19 doesn't get into that.

20 MR. HERMANCENCE: There's going to  
21 be --

22 MR. CAVELLERO: I'm going to put a  
23 gutter.

24 CHAIRMAN SCALZO: Throw them into a  
25 pile of stones or something.

2 All right. At this point it  
3 doesn't look like anybody else from the  
4 public wants to speak. I'll look to the  
5 Board for a motion to close the public  
6 hearing.

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

9 MS. REIN: I'll second.

10 CHAIRMAN SCALZO: You guys are so  
11 excited down there, I can see it. We  
12 have a motion from Mr. Masten. We have a  
13 second from Ms. Rein. All in favor.

14 MR. EBERHART: Aye.

15 MR. HERMANCE: Aye.

16 CHAIRMAN SCALZO: Aye.

17 MR. MASTEN: Aye.

18 MS. REIN: Aye.

19 CHAIRMAN SCALZO: Those opposed?

20 (No response.)

21 CHAIRMAN SCALZO: Silence.

22 Okay. What we've got in front of  
23 us, folks, is an application that,  
24 through dialogue with the applicant, it  
25 sounds to me like we have now -- we're

2 now looking at an application that  
3 perhaps is a structure that's 38 feet  
4 wide by 30 feet deep.

5 What was the height, the last  
6 height that was mentioned?

7 MS. REIN: 21 something.

8 CHAIRMAN SCALZO: Because the  
9 cupola is off.

10 MR. DONOVAN: I had 21.2 3/4, just  
11 so we're clear.

12 CHAIRMAN SCALZO: Yes.

13 MR. DONOVAN: When Mr. Mattina has  
14 his tape measure and he's up at the  
15 top --

16 CHAIRMAN SCALZO: I'm curious if he  
17 ever really does that.

18 MR. DONOVAN: He has people.

19 MS. JABLESNIK: He does have  
20 people.

21 CHAIRMAN SCALZO: I'll ask the  
22 applicants, is that the way you would  
23 like to proceed or would you like to have  
24 the application go exactly as presented?

25 MR. CAVELLERO: I agree with what

2 we discussed, what we talked about.

3 CHAIRMAN SCALZO: All right.

4 MS. REIN: Then we can approve this  
5 with conditions. Correct?

6 CHAIRMAN SCALZO: Absolutely.

7 MR. DONOVAN: If I can make a  
8 suggestion. I don't think it would be  
9 with conditions. I think we're going to  
10 deem the application amended to have a 38  
11 by 30 building with a height of 21 feet  
12 2 3/4 inches. Are we doing engineering  
13 points or --

14 CHAIRMAN SCALZO: That's  
15 architectural drawings. I'll give you  
16 the inches, Dave.

17 MR. CAVELLERO: I was going down.  
18 20 foot and 3/4. I went from 14 foot to  
19 13 foot ceilings?

20 CHAIRMAN SCALZO: Yes.

21 MR. CAVELLERO: I just want to make  
22 sure.

23 CHAIRMAN SCALZO: Now we have a new  
24 number.

25 MR. CAVELLERO: I mentioned taking

2 it a foot down. I'll be honest.

3 CHAIRMAN SCALZO: Very good. I  
4 appreciate that. Now we're looking at a  
5 total building height of 20 foot 2 3/4.

6 Okay. Now we're going to go ahead  
7 and ask our area variance questions.

8 MR. DONOVAN: Did you close the  
9 public hearing?

10 CHAIRMAN SCALZO: I believe I did.

11 MR. DONOVAN: I'm just checking.  
12 I'm not saying you didn't. I'm just  
13 checking.

14 CHAIRMAN SCALZO: Thank you.

15 This is a Type 2 action under  
16 SEQRA. Correct, Counsel?

17 MR. DONOVAN: That is correct, Mr.  
18 Chairman.

19 CHAIRMAN SCALZO: I want to make  
20 sure I'm doing everything right now. I'm  
21 slipping.

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



2 applicant.

3 MS. REIN: No.

4 MR. HERMANCE: No.

5 CHAIRMAN SCALZO: The second, if  
6 there's an undesirable change in the  
7 neighborhood character or a detriment to  
8 nearby properties. While we may not  
9 think so, we may hear about it later from  
10 other people. The applicant has reduced  
11 the size, so the variance that they are  
12 asking for is severely reduced from what  
13 they came in here with.

14 The third, whether the request is  
15 substantial. Now we're only at 140 feet  
16 over, 14 percent, which is a heck of a  
17 lot better than it was before.

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

21 MS. REIN: No.

22 CHAIRMAN SCALZO: It does not  
23 appear so.

24 The fifth, whether the alleged  
25 difficulty is self-created, which of

2 course it is.

3 If the Board approves, it shall  
4 grant the minimum variance necessary and  
5 may impose reasonable conditions.

6 We have an amended application. As  
7 far as a reasonable condition, I just  
8 want your clarification that there will  
9 be no automotive repair shop being --

10 MR. CAVELLERO: No.

11 CHAIRMAN SCALZO: -- run out of  
12 this structure.

13 MR. CAVELLERO: No.

14 CHAIRMAN SCALZO: Okay. Having  
15 gone through the balancing tests, does  
16 the Board have a motion of some sort?

17 MR. MASTEN: I'll make a motion to  
18 approve it.

19 CHAIRMAN SCALZO: With the new  
20 values that --

21 MR. MASTEN: The new readjustment.

22 CHAIRMAN SCALZO: We have a motion  
23 from Mr. Masten. Do we have a second?

24 MS. REIN: I'll second it.

25 CHAIRMAN SCALZO: We have a second

2 from Ms. Rein.

3 Can you roll on that, please,  
4 Siobhan.

5 MS. JABLESNIK: Mr. Eberhart?

6 MR. EBERHART: Yes.

7 MS. JABLESNIK: Mr. Masten?

8 MR. MASTEN: Yes.

9 MS. JABLESNIK: Mr. Hermance, I  
10 forgot you.

11 MR. DONOVAN: He started to cry.

12 MS. JABLESNIK: I'm very sorry.

13 MR. HERMANCE: Yes.

14 MS. JABLESNIK: Ms. Rein?

15 MS. REIN: Yes.

16 MS. JABLESNIK: Mr. Scalzo?

17 CHAIRMAN SCALZO: Yes.

18 The amended application is  
19 approved.

20 MR. CAVELLERO: Thank you.

21 MS. CAVELLERO: Thank you.

22 CHAIRMAN SCALZO: At least I've  
23 tried to entertain you through the  
24 evening.

25 MR. CAVELLERO: You have.

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(Time noted: 8:25 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 31st day of October 2024.

*Michelle Conero*  
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MICHELLE CONERO

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

SPARK CAR WASH  
1227-1229 Route 300, Newburgh  
Section 96; Block 1; Lots 4 & 5  
IB Zone

----- X

Date: October 24, 2024  
Time: 8:25 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVES: JENNIFER PORTER,  
ROBERT VALLARIO, PAUL MUTCH &  
NICHOLAS TORTORELLA

----- X

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

2 CHAIRMAN SCALZO: This was held  
3 open from the September 26th meeting  
4 which was held open from the August  
5 meeting which we didn't have.

6 MS. PORTER: The July meeting.

7 CHAIRMAN SCALZO: You folks had a  
8 conflict last month, which is why you're  
9 here this month.

10 MS. PORTER: Originally we -- we  
11 didn't have the determination, so we had  
12 to hold it open from July.

13 CHAIRMAN SCALZO: Were we here in  
14 August?

15 MS. JABLESNIK: We were not. It  
16 was my fault.

17 MS. PORTER: We couldn't do the  
18 one-stop shop in July.

19 CHAIRMAN SCALZO: Here we are. We  
20 have Spark Car Wash. I believe we heard  
21 most of this all before.

22 MS. PORTER: You did.

23 CHAIRMAN SCALZO: We hadn't  
24 received County back by then.

25 MS. PORTER: Right.

2 CHAIRMAN SCALZO: Boy, are they way  
3 past their time.

4 MS. PORTER: They did respond. All  
5 they said is we have no comments, Local  
6 determination.

7 CHAIRMAN SCALZO: I remember the  
8 presentation. Once we're done, it goes  
9 back to the Planning Board, --

10 MS. PORTER: Yes.

11 CHAIRMAN SCALZO: -- should you get  
12 what you're looking for.

13 MS. PORTER: Yes.

14 CHAIRMAN SCALZO: But, you know,  
15 I'm going to stop myself right now and  
16 say it's been so long, can you just give  
17 me the Reader's Digest version --

18 MS. PORTER: Sure.

19 CHAIRMAN SCALZO: -- of the  
20 variances that you're looking for?

21 MS. PORTER: I'm Jen Porter, I'm  
22 with CSG Law. I'm here on behalf of  
23 Spark Car Wash. We're going to have Paul  
24 Mutch, our civil engineer, walk you  
25 through quickly the three area variances

2 we're seeking to give you a recap, and  
3 then we're here to answer any questions.  
4 We have our traffic consultant, because  
5 one of the variances relates specifically  
6 to the driveway to the property line. We  
7 have Rob Vallario from Spark if you have  
8 operational questions. I know there were  
9 some questions that came up at the last  
10 meeting with regard to the operations as  
11 it related specifically to the car wash  
12 and the rear yard setback and that  
13 particular variance. Any questions you  
14 have after you hear the presentation,  
15 we're happy to answer.

16 CHAIRMAN SCALZO: Once you start,  
17 I'm sure we're all going to remember what  
18 you said before. You can keep it to an  
19 outline.

20 MS. JABLESNIK: I wasn't here.

21 CHAIRMAN SCALZO: I do remember  
22 there's like a gold card that you can  
23 have.

24 MR. VALLARIO: I'm still working on  
25 getting one for myself.



2 MR. MUTCH: Again, just very  
3 briefly, we have a state-of-the-art,  
4 fully automated car wash use here. The  
5 business is really driven by memberships  
6 like you're talking about. They provide  
7 percs, like the vacuum stations that have  
8 all kinds of tools you can use to clean  
9 your car. There's a Spark park station.  
10 It's meant to be efficient. The  
11 experience is meant to be top notch.  
12 People want to be members, come back a  
13 couple times a month. It usually ranges  
14 in the 50 to 60 percent. It's meant to  
15 be convenient, it's meant to be  
16 efficient, friendly employees onsite.  
17 All the things you would expect.

18 We have a modern reclaim system  
19 where all of those car wash fluids are  
20 not coming out and running onto the  
21 street. That's not a thing here. It all  
22 gets reclaimed, filtered and reused in  
23 the building. It's just a modern state-  
24 of-the-art car wash, very different from  
25 the car washes you saw in the past.

2 The site is constrained on two  
3 sides by a stream. It runs down this  
4 side and then behind the site, so those  
5 -- on the eastern side -- it's the  
6 northern side you have a natural and  
7 permanent buffer. Nobody could ever  
8 develop back there. You have a stream,  
9 wetlands.

10 CHAIRMAN SCALZO: We discussed  
11 this. It is Federal. Correct?

12 MR. MUTCH: Yes. That will be  
13 wooded forever. That leads to the first  
14 variance, which is a rear yard setback  
15 variance. We pressed that building back  
16 to basically where the edge of the  
17 existing pavement is today. We're not  
18 expanding the development past the  
19 existing pavement. That building will  
20 sit along the existing treeline against  
21 that natural buffer. That encroachment  
22 in the rear yard does not have an impact,  
23 from my perspective, on the neighbors  
24 because we have that natural and  
25 permanent buffer behind the site.

2 MS. REIN: Can I ask you something  
3 and interrupt? I made notes last time  
4 about the stream contamination.

5 MR. MUTCH: Yes. There will be no  
6 stream contamination associated with this  
7 use. Right now basically the entire use  
8 flows overland and kind of meanders into  
9 that stream. Some of it goes to the DOT.  
10 We're collecting all of that water onsite  
11 and conveying it mostly to the DOT  
12 frontage. That's just specifically  
13 parking lot runoff. We're going to clean  
14 that up with more landscaping and better  
15 conveyance. As far as the chemicals or  
16 the cleaning fluids inside, the entire  
17 tunnel is pitched. It all gets collected  
18 in a reclaimed system, filtered. Any  
19 effluent from that goes into the sanitary  
20 sewer system. It's never exposed to the  
21 landscaping, the runoff or the stream in  
22 any way. You're only going to have  
23 parking lot runoff going anywhere near  
24 that stream. No car wash fluids.

25 MS. REIN: You changed that, didn't

2 you, because it wasn't going into the  
3 sanitary sewer system before?

4 MR. MUTCH: The effluent from the  
5 car washing itself was always going into  
6 the sanitary sewer system. Because that  
7 will have some residual soaps and things  
8 in it, it has to go to the sanitary. We  
9 do not go to the storm system in any way.

10 MS. REIN: Thank you.

11 MR. MUTCH: Absolutely.

12 So I described the first variance.

13 The second variance is a front yard  
14 setback variance. We have a pay station  
15 structure along the frontage. It is a  
16 small structure. It's only about 7 to 10  
17 feet in height, depending on the model  
18 we're using out there. It's 23 feet from  
19 the front property line, from the edge of  
20 the canopy to the property line itself,  
21 where a 60-foot buffer would be required.

22 CHAIRMAN SCALZO: Required for a  
23 State highway.

24 MR. MUTCH: Exactly. It's more the  
25 size of the sign than the building. We

2 feel the impact is pretty minimal to the  
3 overall roadway network.

4 Spark, from this plan, has made  
5 their pay stations more efficient in  
6 general. There are more kiosks with  
7 canopies rather than the large structure.  
8 The setback will be the same at that 23  
9 feet. The overall structure and the  
10 massing of that pay station will be even  
11 less in the final condition.

12 MR. DONOVAN: Could I just interrupt?  
13 There was a question last time, I read  
14 through the minutes, as to whether or not  
15 the canopy and kiosk were structures for  
16 which you needed a variance.

17 MR. MUTCH: I think we all decided  
18 that we would need that variance at the  
19 last meeting. We're pursuing it. Again,  
20 these kiosks are only about eight feet in  
21 height and they sit separately rather  
22 than the full canopy. There is a manned  
23 kiosk out there. An employee is out  
24 there to help people as they come  
25 through, those daily riders that might

2 need help with the system, and also to  
3 keep the lanes operating efficiently. We  
4 talked about the fact that a couple of  
5 these lanes will be members only lanes  
6 for the people with the passes. If you  
7 get a long queue that's stacked up, they  
8 all function the same, the employee there  
9 can direct people to use all the lanes to  
10 make sure that's operating in a very  
11 efficient manner. That's variance number  
12 two.

13 The third variance is the  
14 separation of our driveway from our  
15 property line. The existing driveway  
16 actually goes beyond our property line.  
17 It's a couple of feet past. We're  
18 pulling the curb radius of our driveway  
19 back into our property. It's 1.8 feet  
20 where 10 feet is required. It's a big  
21 radius. It's 33 feet. That was all  
22 driven by the DOT. We have received  
23 approval from the DOT. There were no  
24 further plan comments. They just said  
25 apply for your highway occupancy permits

2 and construction permits. We'll do that.  
3 That's a positive for that driveway. The  
4 effective width really there to any  
5 interaction of other driveways, it's more  
6 like 100 feet as they operate today.

7 CHAIRMAN SCALZO: Okay. I don't  
8 know if my question is going to be for  
9 you or not. With the canopy, there are  
10 three -- you can go through three  
11 separate entrances to get in there?

12 MR. MUTCH: That's correct. Yes.

13 CHAIRMAN SCALZO: One of them is  
14 going to be dedicated to members. Would  
15 that be the one that's going to be  
16 closest to the right-of-way?

17 MR. MUTCH: That is going to be the  
18 closest. Typically that manned shelter  
19 will be closest to the interior lane  
20 which is where you'll have that daily  
21 rider. Usually they start with one and  
22 it goes to two.

23 CHAIRMAN SCALZO: The assumption is  
24 that members would kind of know their way  
25 around the facility so they won't be the

2 ones jamming it up. I'm worried about  
3 stacking room.

4 MR. MUTCH: I can go into a spiel  
5 about stacking. This is what I'm here  
6 for.

7 CHAIRMAN SCALZO: Coming in off  
8 300, obviously it's a right in/right out  
9 only?

10 MR. MUTCH: No. This is a full  
11 movement driveway.

12 STPHAO: The DOT approved it as a  
13 full movement.

14 CHAIRMAN SCALZO: Is there a  
15 turning lane?

16 MR. MUTCH: There is turn lane.

17 CHAIRMAN SCALZO: It's rough when  
18 I'm trying to get into Home Depot. All  
19 right.

20 MR. MUTCH: It may be a self-  
21 policing left turn, but the DOT was  
22 comfortable with it.

23 CHAIRMAN SCALZO: I'm not that guy.  
24 People waiting to -- well, the circulation  
25 itself through the site, the activity of



2 getting your car washed, will that  
3 facilitate keeping the stacking or the  
4 queue low?

5 MR. DONOVAN: Tell us who you are  
6 for the record.

7 MR. TORTORELLA: Nicholas Tortorella,  
8 traffic and transportation engineer with  
9 Stonefield Engineering & Design.

10 To touch on your point here, we  
11 have three ingress lanes with a total of  
12 sixteen vehicle stacking spaces.

13 We spoke about the members only  
14 lane. Spark has a license plate  
15 recognition software for members. It  
16 functions like an EZ-Pass gate, if you  
17 could picture that. Through these gates,  
18 member transactions take about ten  
19 seconds. It's extremely fast. You're  
20 essentially progressing unimpeded as the  
21 software recognizes your license plate.

22 As Paul said earlier, there is a  
23 dedicated attendant here to serve the  
24 non-members lane. Those transactions  
25 take about thirty-five to fifty seconds.

2 Still relatively fast, but definitely  
3 longer than the members.

4 Again I'll say we have the sixteen  
5 total vehicle stacking spaces upstream of  
6 the gates alone. What we wanted to do to  
7 verify that we have adequate stacking  
8 space, because we certainly do not want  
9 the queues backing up to the driveway and  
10 impeding traffic flows into or out of the  
11 site, we conducted observations at an  
12 existing Spark facility located along two  
13 state highways in Sicklerville, New  
14 Jersey. What we observed at that Spark  
15 facility is during a peak Friday and a  
16 peak Saturday period, which are the  
17 highest periods of activity for the car  
18 wash, the highest queue we observed in  
19 any single lane was five total vehicles  
20 in a non-member lane. Three minutes  
21 after we observed that peak queue, that  
22 stacking had gone down to only two  
23 vehicles in only three minutes. Really  
24 throughout the entire peak periods we  
25 observed queues of no more than three

2 cars in the non-member lane, no more than  
3 two cars in a member lane. When you look  
4 at it from providing sixteen total  
5 stacking spaces, we really expect this is  
6 going to be more than enough queueing  
7 space to accommodate even the peak demand  
8 that could occur here without this queue  
9 really ever approaching the driveway and  
10 impacting flows into and out of the site.

11 Specifically to your question, Mr.  
12 Chairman. It will definitely not impact  
13 the traffic flows on Route 300 itself.

14 CHAIRMAN SCALZO: Got you. Just so  
15 I'm clear, exiting your facility you can  
16 make a right or a left?

17 MR. MUTCH: A right or a left.

18 CHAIRMAN SCALZO: Okay.

19 MS. JABLESNIK: Can we pretend I'm  
20 a member, because I have a question?  
21 What if you don't have a license plate on  
22 the front of your car?

23 MR. TORTORELLA: It's the rear.

24 MR. MUTCH: You are required, in  
25 New York, to have a front license plate.

2 MS. JABLESNIK: We don't need to  
3 say that out loud.

4 MR. TORTORELLA: Any further  
5 questions pertaining to that?

6 CHAIRMAN SCALZO: No. Traffic  
7 engineering is an art in itself based on  
8 projections or crystal balls or something  
9 like that, I'm not sure. I'm all right.  
10 I've got nothing.

11 I'm going to start at that end.  
12 Ms. Rein?

13 MS. REIN: No dog washes?

14 MR. TORTORELLA: No. Absolutely  
15 not. Every time I drive past that dog  
16 wash -- I mentioned it to Bob.

17 MR. MUTCH: No dog washes and no  
18 servicing of vehicles.

19 CHAIRMAN SCALZO: You probably  
20 don't have regular people wash showers  
21 either.

22 MS. REIN: That's a good thing.  
23 Hose you down as you go.

24 CHAIRMAN SCALZO: Drive the  
25 convertible and leave the top down.

2 Mr. Masten?

3 MR. MASTEN: I have nothing.

4 CHAIRMAN SCALZO: Mr. Hermance?

5 MR. HERMANCE: The vacuum area is  
6 off on the side. That won't impede  
7 exiting as people are vacuuming?

8 MR. TORTORELLA: Absolutely not.  
9 Each vehicle gets its own individual  
10 vacuum station. They have all the  
11 materials there to clean your car. It's  
12 all self-service.

13 As Paul eluded to earlier, there  
14 are specific stations that allow you to  
15 vacuum your mats more efficiently.

16 Again, this is 24 feet wide, so we  
17 do not expect anything in this Spark park  
18 area to affect traffic circulation on  
19 this egress roadway and really have  
20 anything to do with traffic entering or  
21 exiting.

22 MS. REIN: I do have one other  
23 question. Is there a time change in the  
24 queue because of the services asked for?  
25 Some people will ask for just the wash,

2 some people will ask for different things  
3 going on with that, the tire shine and  
4 there are different packages.

5 MR. TORTORELLA: Just to clarify,  
6 are you asking if there's a change in  
7 time at the wash tunnel or the gate  
8 itself?

9 MS. REIN: That would affect each  
10 other.

11 MR. TORTORELLA: Very simply, and  
12 feel free to add anything if you feel  
13 like it, in the wash tunnel itself, the  
14 process from start to finish takes  
15 between two and two and a half minutes  
16 really no matter what package.

17 MS. REIN: Regardless of the  
18 package?

19 MR. TORTORELLA: You pull up, you  
20 pull to a roller, put your car in neutral  
21 with the help of a dedicated attendant  
22 and it takes you through the entire  
23 process, including drying.

24 MS. REIN: The flow won't change  
25 regardless of the package?

2 MR. TORTORELLA: Absolutely not.  
3 Spark has the ability to increase the  
4 speed of that wash tunnel if they ever  
5 needed to. We have not come across that  
6 situation. If it were ever necessary,  
7 they have the ability to increase the  
8 speed so it takes about ninety seconds as  
9 opposed to two to two and a half minutes,  
10 like I referenced earlier, without  
11 affecting the quality of the wash at all.

12 The reason they don't always run it  
13 at ninety seconds is it's really not  
14 necessary most of the time and it has  
15 increased wear and tear on machinery that  
16 could lead to increased operations cost  
17 really for no reason. It's just another  
18 added benefit that they have.

19 MS. REIN: Thank you.

20 CHAIRMAN SCALZO: Good?

21 MR. MASTEN: Yeah.

22 MR. HERMANCE: I have nothing  
23 further.

24 CHAIRMAN SCALZO: Mr. Bachmueller,  
25 you're the only member of the public.

2 MR. BACHMUELLER: Ironically I'm  
3 building a car wash in this intersection.  
4 I'm thinking to myself, how could there  
5 be another application. We're underway.  
6 That's why I waited around to listen to  
7 this.

8 CHAIRMAN SCALZO: You know what, I  
9 didn't even put that together. You folks  
10 are under construction?

11 MR. BACHMUELLER: It's a different  
12 car wash. It's the same distance from  
13 17K. It's on the other side of the  
14 intersection.

15 CHAIRMAN SCALZO: The one at the  
16 old muffler joint. A lot of dirty cars  
17 out there.

18 MR. BACHMUELLER: Apparently.  
19 Apparently. I don't have any comments  
20 really. It was a great presentation.

21 CHAIRMAN SCALZO: I always like  
22 hearing about level of service. You  
23 didn't throw out that word.

24 MR. BACHMUELLER: If you need  
25 somebody to built that turning lane, come



2 see me.

3 CHAIRMAN SCALZO: Mr. Bachmueller,  
4 other than those comments, you've got  
5 nothing else?

6 MR. BACHMUELLER: No.

7 CHAIRMAN SCALZO: Thank you. I  
8 appreciate you being here.

9 At this point I guess I'll look to  
10 the Board for a motion to close the  
11 public hearing.

12 MR. EBERHART: I'll make the motion.

13 CHAIRMAN SCALZO: I'm going to give  
14 it to Mr. Eberhart, only because he  
15 finished first. Would you like to second  
16 it?

17 MR. MASTEN: Yes.

18 CHAIRMAN SCALZO: We have a motion  
19 from Mr. Eberhart. We have a second from  
20 Mr. Masten. All in favor.

21 MR. EBERHART: Aye.

22 MR. HERMANCE: Aye.

23 CHAIRMAN SCALZO: Aye.

24 MR. MASTEN: Aye.

25 MS. REIN: Aye.

2 CHAIRMAN SCALZO: This is an  
3 Unlisted action?

4 MR. DONOVAN: Mr. Chairman, last  
5 time I said it was an Unlisted action, I  
6 think I got hung up on the fact that it's  
7 under 4,000 square feet. Reading the  
8 SEQRA regulations, a setback and lot line  
9 variances are Type 2 actions. Even  
10 though there's a separate section for  
11 single-family, two-family, three-family,  
12 I'm going to admit a mistake.

13 MS. REIN: A Type 2?

14 MS. PORTER: A Type 2 versus  
15 Unlisted. Why not.

16 CHAIRMAN SCALZO: It's one less  
17 step.

18 MR. DONOVAN: Obviously the  
19 Planning Board -- just to be clear, the  
20 Planning Board will go through their  
21 SEQRA process.

22 MS. PORTER: It's an uncoordinated  
23 review.

24 CHAIRMAN SCALZO: Thank you. All  
25 right. So we don't have to go through

2 that whole other determination. You've  
3 heard it all before.

4 The first factor, whether the  
5 benefit can be achieved by other means  
6 feasible to the applicant.

7 MR. EBERHART: No.

8 MR. HERMANCE: No.

9 MR. MASTEN: No.

10 MS. REIN: No.

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

15 MR. EBERHART: No.

16 MR. HERMANCE: No.

17 MR. MASTEN: No.

18 MS. REIN: No.

19 CHAIRMAN SCALZO: No. You know,  
20 Route 300 is -- I love what it's done for  
21 my taxes, but I avoid it during rush  
22 hour.

23 Third, whether the request is  
24 substantial.

25 MS. REIN: Yes.

2 CHAIRMAN SCALZO: The fourth,  
3 whether the request will have adverse  
4 physical or environmental effects. We've  
5 been assured by the engineer that there  
6 have been mitigating efforts employed to  
7 prevent any big environmental effects.

8 The fifth, whether the alleged  
9 difficulty is self-created, which of  
10 course it is. They're here asking for  
11 permission and not for forgiveness, which  
12 half of our applicants seem to be here  
13 for.

14 Having gone through the balancing  
15 tests, does the Board have a motion of  
16 some sort?

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

19 MR. HERMANCE: I'll second.

20 CHAIRMAN SCALZO: We have a motion  
21 for approval from Ms. Rein. We have a  
22 second from Mr. Hermance.

23 Can you roll on that, please,  
24 Siobhan.

25 MS. JABLESNIK: Mr. Eberhart?

2 MR. EBERHART: Yes.

3 MS. JABLESNIK: Mr. Hermance?

4 MR. HERMANCE: Yes.

5 MS. JABLESNIK: Mr. Masten?

6 MR. MASTEN: Yes.

7 MS. JABLESNIK: Ms. Rein?

8 MS. REIN: Yes.

9 MS. JABLESNIK: Mr. Scalzo?

10 CHAIRMAN SCALZO: Yes.

11 MS. PORTER: Great.

12 CHAIRMAN SCALZO: The motion is  
13 carried. The variances are approved. I  
14 didn't mean to hang you up as long as we  
15 did.

16 The only other order of business we  
17 have are the meeting minutes from last  
18 month.

19 MS. PORTER: The last item on your  
20 agenda, the QuickChek, the attorney for  
21 that application asked me to just briefly  
22 ask the Board Attorney if there was an  
23 extension needed for that application.

24 CHAIRMAN SCALZO: The public  
25 hearing is still open.

2 MS. PORTER: Perfect. All right.  
3 Thank you so much.

4 CHAIRMAN SCALZO: Approval of the  
5 meeting minutes from our last meeting.  
6 Do we have a motion for approval?

7 MR. EBERHART: I'll make the  
8 motion.

9 MR. HERMANCE: Second.

10 CHAIRMAN SCALZO: We have a motion  
11 from Mr. Eberhart. We have a second from  
12 Mr. Hermance. All in favor of approval  
13 of last month's meeting minutes.

14 MR. EBERHART: Aye.

15 MR. HERMANCE: Aye.

16 CHAIRMAN SCALZO: Aye.

17 MR. MASTEN: Aye.

18 MS. REIN: Aye.

19 CHAIRMAN SCALZO: A motion to  
20 adjourn.

21 MR. HERMANCE: I'll make the  
22 motion.

23 MS. REIN: Second.

24 CHAIRMAN SCALZO: We have a motion  
25 from Mr. Hermance and we have a second

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from Ms. Rein. All in favor.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

CHAIRMAN SCALZO: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

(Time noted: 8:45 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 31st day of October 2024.

*Michelle Conero*  
\_\_\_\_\_  
MICHELLE CONERO