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

- - - - - X  
In the Matter of

LARRY ROTHSTEIN & GINA MAZZARELLI

11 Anchor Drive, Newburgh  
Section 121; Block 1; Lot 16  
R-1 Zone

- - - - - X

Date: March 26, 2026  
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

APPLICANT'S REPRESENTATIVES: WILLIAM FRANK  
PATTI BROOKS  
LARRY ROTHSTEIN

- - - - - X

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

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CHAIRMAN SCALZO: I'd like to call the meeting of the Zoning Board of Appeals to order. The order of business this evening is the public hearings which have been scheduled.

The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. The Board will then consider the applications and will try to render a decision this evening but may take up to 62 days to reach a determination.

I would ask if you have a cellphone, to please turn it off or put it on silent. When speaking, speak directly into the microphone as it is being recorded. Hopefully the batteries have been changed since our last meeting.

MS. JABLESNIK: It works tonight.

CHAIRMAN SCALZO: Roll call, please.

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MS. JABLESNIK: Latwan Banks is absent this evening.

Darrell Bell is also absent this evening.

James Eberhart.

MR. EBERHART: Here.

MS. JABLESNIK: Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: Donna Rein.

MS. REIN: Here.

MS. JABLESNIK: Darren Scalzo.

CHAIRMAN SCALZO: Here.

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

CHAIRMAN SCALZO: Thank you.

If we could all rise for the Pledge.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Our first applicant this evening is Larry Rothstein

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and Gina Mazzarelli, 11 Anchor Drive, seeking an area variance of the maximum allowable building height. It has been determined that the height of the structure is 40.8 feet, exceeding the 35 feet allowable height permitted by Town Code.

Siobhan, do we have mailings on this?

MS. JABLESNIK: This applicant sent 17 letters.

CHAIRMAN SCALZO: 17 letters. Okay. That being said, who do we have with us this evening representing this applicant?

MR. FRANK: Good evening, Mr. Chairman, Members of the Board and Counsel. My name is William Frank. I'm an attorney at Blustein, Shapiro, Frank & Barone in Goshen. I'm here on behalf of the applicant, Larry Rothstein. With us is Mr. Rothstein and also Patricia Brooks, surveyor from Control Point, who is here with renderings of the subject property which we are seeking

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the 5.8 foot variance to the height of the structure.

The criteria that we set forth in the application is before the Board. I can go through it if you wish.

One thing I would like to supplement to the submitted application, and I believe Ms. Brooks forwarded this, it's a memo from Fire Chief Gorum, Chief Gorum stating that he inspected the property and he has no objection to the granting of the height variance. There will be no access issues to the property. There will be no problem with firematic services to it.

However, if Mr. Chairman wants us to go through it, Ms. Brooks can discuss the renderings and we can discuss the application itself at the Board's pleasure.

CHAIRMAN SCALZO: I would like that. Thank you.

MR. FRANK: Shall we turn it over to Ms. Brooks?

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CHAIRMAN SCALZO: Please.

MR. FRANK: Do you want me to bring her the microphone?

MS. BROOKS: I speak pretty loudly.

CHAIRMAN SCALZO: It's all in the breathing.

MS. BROOKS: It's all in the breathing.

Good evening. As Attorney Frank stated, we are here this evening to request an area variance for the highest peak of this dwelling unit which is 40.8 feet above where it needs to be measured in the front yard.

The Town of Newburgh building height definition is the vertical distance measured from the average elevation of the finished grade along the side of the structure fronting on the nearest street to the highest point of the structure.

In this particular case we have a very high peaked roof on a 12 by 16 slope.

This window that's all the way on

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top is actually in the attic. It's a false window, so there are no habitants up in that area.

When the drawings were prepared by the architect, there was an understanding that there would be a distance of 34 feet 8 5/8 inches to where the finished grade was going to be. Unfortunately the site conditions at this property did not allow for the construction to take place in that manner.

As you can see in the drawings, and they also were included in the application, the front door, while it was shown on the plans to only have three stairs, has either five or six, I couldn't count with the snow there, which basically made a situation where the top of the retaining wall is 50.4 feet in elevation and then the grade in front is 46.1. That gives us an elevation difference of 40.8 feet.

We're fine in the rear of the building as evidenced by the photographs that we supplied.

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Because of the steep nature of the property, which you can see on the photographs, and I'm sure all of you went to look at the site, one of the key features is the fact that Central Hudson, in their construction standard, requires that access to the electric pad, that area, by vehicle must be possible at all times within 10 feet of the roadway or the driveway to ensure proper operation and maintenance functions. We had to, from the driveway, get a grade along the front of the house to be able to access that electric transformer box.

One of the options that we discussed was how do we mitigate this. Is it possible to raise the grade? In this instance it is not possible to raise the grade because then that would prohibit access to the transformer.

We believe that this is in character with the neighborhood.

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Whether the height is 35 feet or 40 feet really does not make any difference as far as the visual impacts on anybody looking at it from this dead-end roadway, and it is the third to the last house on this dead-end roadway. The neighbor to the east is the Hudson River, so there's no impact there. Again, there's a newly constructed home on the north side of the property which would not be obstructed with that 5-foot height difference.

We believe that we have met the criteria of the burden that would be placed on the applicant to try to figure out a way to mitigate this problem. It would definitely outweigh any detriment that would be created to the Town or the neighborhood.

CHAIRMAN SCALZO: Thank you, Ms. Brooks.

I met the owner out there. As we were standing there, an eagle flew

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by. It was wonderful.

The owner actually said, too, they experienced some difficulties with the contractors that they had been dealing with.

I understand if you were to continue the slope from the lower portion all the way up to that wall, you may meet the criteria, but, however, as you just stated, the utility company is indicating that they would prefer a flat area if they had to drive over to that box. It makes sense to me.

You were actually here, Ms. Brooks, for the contiguous neighbor.

MS. BROOKS: Yes, I was.

CHAIRMAN SCALZO: It's a lovely neighborhood, but to me it's the neighborhood of people that don't know how to measure height. Next door there was an accessory structure that was -- we were here for the same reason.

MS. BROOKS: Absolutely.

CHAIRMAN SCALZO: So thankfully as

2 I stood on that -- I mean, that became a  
3 nonissue.

4 MS. BROOKS: It's beautiful.

5 CHAIRMAN SCALZO: Sure. The owner  
6 had indicated that, you know, had perhaps  
7 the architect mentioned to him to sink  
8 the building as deep as he possibly  
9 could. You had mentioned the site maybe  
10 had some constraints that wouldn't have  
11 allowed that. Did they hit bedrock? Did  
12 something happen that wouldn't have  
13 allowed that?

14 MS. BROOKS: No. I have no doubt  
15 that if perhaps the contractors had  
16 coordinated better between the architect,  
17 the site excavator, the contractor.

18 Again, how long has this construction  
19 been going on, Mr. Rothstein?

20 MR. ROTHSTEIN: Over three years.

21 MS. BROOKS: Over three years. To  
22 say he's had difficulty with the contractors  
23 on this site is an understatement. It wasn't  
24 until we actually did the final as-built  
25 and I had the unpleasant task of letting

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Mr. Rothstein know that they actually had not graded the property properly. Could it have been avoided if the contractors and everybody involved had done something differently initially? Absolutely.

MR. DONOVAN: Would it be accurate to say the only way to accomplish it now is to take the house down and start over?

MS. BROOKS: Absolutely. Which obviously is incredibly burdensome.

MR. FRANK: Somewhat burdensome.

Those of you who may have visited the property would know, as I did before this meeting tonight, the view shed of the neighbors is not impacted by the current placement of the structure.

As we said before, there are no issues with firematic services.

The utilities can reach the transformer now based on the way it was constructed.

Certainly it doesn't alter the essential character of the neighborhood,

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which is a lovely neighborhood. All the houses are lovely. This structure, as it stands now, does not alter that in any way.

Looking at the question of whether this was self-created, as was noted, there were some differences, maybe some issues with the contractor. Certainly not by the owner. The owner of this property certainly had no intention of going over the restrictions in the bulk requirements of the code, but we are here because of what happened.

We do welcome any other questions. We do ask, obviously, if there is anyone from the public, we would be happy to listen to them, if we can address anything that's raised by the public.

We believe, as Ms. Brooks indicated, that this is a situation where the criteria for an area variance has been met.

We would ask the Board to consider

2 our application favorably. Thank you.

3 CHAIRMAN SCALZO: Thank you.

4 Just because you brought it up, the  
5 self-created --

6 MR. FRANK: It's one of the criteria.

7 CHAIRMAN SCALZO: I've been schooled  
8 by our counsel here that just about  
9 everything that comes in here is self-  
10 created.

11 MR. FRANK: I represent zoning  
12 boards as well, and that can be -- that's  
13 fair to say.

14 CHAIRMAN SCALZO: Sure.

15 MR. FRANK: I agree with Mr. Donovan.

16 MR. DONOVAN: As we like to say here,  
17 it's relevant but not determinative.

18 CHAIRMAN SCALZO: It's not a scorecard,  
19 as counsel says. It's just one of the five.

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

21 MR. DONOVAN: This is a type 2 action.  
22 That's correct.

23 CHAIRMAN SCALZO: All right. Thank  
24 you so much. I've been doing all the  
25 talking.

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MR. FRANK: Please fire away if there are any questions.

CHAIRMAN SCALZO: I'm going to go to my left here. Ms. Rein, any questions or comments?

MS. REIN: There was just something here. It may be irrelevant because it's a Type 2 action. On the questionnaire, number 20, it says, "Has the site of the proposed action or an adjoining property been the subject of remediation ongoing or completed for hazardous waste?" You answered "Yes."

MS. BROOKS: That automatically gets answered by the Environmental Resource Mapper. The reason that it's answered yes is because it's adjacent to the Hudson River. Because of the PCB contamination and the dredging along the Hudson River, the DEC Mapper automatically checks anything adjacent to the Hudson River as a yes.

MS. REIN: Thank you.

My only other concern was that this

2 is going to set a precedent. As you  
3 said, the folks in that area don't know  
4 how to measure height. I don't know what  
5 to do with that.

6 CHAIRMAN SCALZO: Okay. Thank you.  
7 Mr. Masten.

8 MR. MASTEN: I have no questions.

9 CHAIRMAN SCALZO: No questions.  
10 Mr. Hermance.

11 MR. HERMANCE: It was explained  
12 very well.

13 CHAIRMAN SCALZO: How they landed  
14 where they landed, if you will.

15 Mr. Eberhart.

16 MR. EBERHART: I'm also very  
17 satisfied with the explanation of why  
18 we're here and how it happened.

19 CHAIRMAN SCALZO: Ms. Brooks, one  
20 thing. This really is not a zoning  
21 issue, but because of my profession on  
22 the other side of things, the well seems  
23 to be -- it scales about 7 feet off the  
24 property. You may want to verify that.  
25 There may be a waiver that needs to be

2 obtained from the Orange County Health  
3 Department.

4 MS. BROOKS: Okay. I will bring  
5 that to the attention of the engineer.

6 CHAIRMAN SCALZO: Thank you. While  
7 I was out there, there was also -- as I  
8 stood with my back to the river, just  
9 after I saw the eagle, there was some --  
10 a cover to my left and behind me. It may  
11 have been done after you did your final  
12 update. I'm sure when Code Compliance  
13 goes out there they may see it and wonder  
14 what it is.

15 MS. BROOKS: Where the underground  
16 propane tank is?

17 CHAIRMAN SCALZO: No. It's all of  
18 25 feet from the well.

19 MS. BROOKS: Okay. It evidently  
20 wasn't up there --

21 CHAIRMAN SCALZO: It may have been  
22 snow covered as well.

23 MS. BROOKS: It could have been.

24 CHAIRMAN SCALZO: A ground-level  
25 improvement I can't imagine you would

2 have seen. If you can verify what that  
3 is, that would certainly help out the  
4 Building Department.

5 As far as the Board goes, our  
6 questions appear to have been answered.

7 At this point I'm going to open it  
8 up to any members of the public that have  
9 any questions regarding this application.

10 (No response.)

11 CHAIRMAN SCALZO: All right.  
12 Apparently everybody is here for something  
13 else. That's good.

14 I'm going to go back to the Board.  
15 Any other questions or comments from  
16 the Board?

17 MR. EBERHART: No.

18 CHAIRMAN SCALZO: It's too bad we  
19 can't get the contractor in here just to  
20 give him a finger wagging.

21 MS. BROOKS: Yes.

22 CHAIRMAN SCALZO: That being said,  
23 I'll look to the Board for a motion to  
24 close the public hearing.

25 MR. MASTEN: I'll make a motion to

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close the public hearing.

MS. REIN: I'll second it.

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

MR. EBERHART: Aye.

MR. HERMANCENCE: Aye.

CHAIRMAN SCALZO: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Those opposed?

(No response.)

CHAIRMAN SCALZO: As Counsel indicated earlier, this is a Type 2 action under SEQRA.

I'm going to go through the variance criteria and discuss the five factors we are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Sure they could, but boy would that be quite the undertaking.

MR. DONOVAN: I don't know that it's feasible. I guess anything is

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feasible.

CHAIRMAN SCALZO: With the right resources and money, anything is possible.

Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. Well, we've heard testimony that it appears to fit right in with the character. The detriment to nearby properties, we've heard testimony that it does not impact the view shed of other residences nearby.

The third, whether the request is substantial. It's probably the highest single-family dwelling that I've seen, so sure it's substantial.

MR. DONOVAN: Just remember, Mr. Chairman, you can analyze that in different ways. One is on a percentage basis, which is 16.5 percent over. The second is the overall impact that it has. You don't always just go by math.

I would say this Board has given variances of a greater magnitude, height variances, than 16 percent. In fact,

2 next door you gave a variance to an  
3 accessory building, not a primary  
4 structure, but it was greater than 16  
5 percent.

6 CHAIRMAN SCALZO: I just want to  
7 point out, Ms. Brooks, the guy always  
8 takes my mathematical stuff away from me.

9 MR. DONOVAN: Because I'm a lawyer  
10 and you're an engineer.

11 MS. BROOKS: What I should have  
12 pointed out is that it's only that little  
13 triangle. It's not the height of the  
14 entire roof line. We're only talking  
15 about a small triangle area that's above  
16 that.

17 MR. FRANK: It's just a little  
18 peak, just for the record.

19 CHAIRMAN SCALZO: Very good.

20 The fourth, whether the request  
21 will have adverse physical or environmental  
22 effects. Not any more than it would have  
23 if it was 5 feet shorter.

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

2 is relevant but not determinative. Of  
3 course it's self-created.

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

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

9 MR. HERMANCE: I'll second it.

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

13 Can you roll on that, please,  
14 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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variances are approved. Good luck.

MS. BROOKS: Thank you very much.

MR. FRANK: I thank the Board very  
much.

(Time noted: 7:20 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 6th day of April 2026.

*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

LARS KEILHORN

3 Mace Circle, Newburgh  
Section 51; Block 5; Lot 13.2  
R-1 Zone

- - - - - X

Date: March 26, 2026  
Time: 7:20 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: LARS KEILHORN

- - - - - X

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

2                   CHAIRMAN SCALZO: Our second  
3                   applicant this evening is Lars Keilhorn,  
4                   3 Mace Circle, seeking area variances of  
5                   the front yard and setback to the  
6                   property line to build an accessory  
7                   structure with solar thermal collectors  
8                   on the roof to heat the pool.

9                   Siobhan, do we have mailings on  
10                  this?

11                  MS. JABLESNIK: This applicant sent  
12                  49 letters.

13                  CHAIRMAN SCALZO: 49 letters.

14                  This one is quite interesting.

15                  Who do we have with us this  
16                  evening?

17                  MR. KEILHORN: Lars Keilhorn  
18                  representing my own little property here.

19                  CHAIRMAN SCALZO: Very good.

20                  MR. KEILHORN: I'm trying to get an  
21                  accessory structure, as you mentioned.

22                  CHAIRMAN SCALZO: Okay. We've all  
23                  been out to see these things. It's a  
24                  unique area, the Orange Lake area.

25                  MR. KEILHORN: We just moved here

2 about a year and a half ago and we're  
3 here to stay. That's all I'm going to  
4 say.

5 CHAIRMAN SCALZO: I always admire  
6 the Orange Lake area, but I have too many  
7 loud hobbies. I would certainly upset  
8 the neighbors.

9 I'm going to actually start with  
10 Mr. Eberhart. Do you have any comments  
11 or questions on this application?

12 MR. EBERHART: Not right at this  
13 moment.

14 CHAIRMAN SCALZO: Okay. Mr. Hermance.

15 MR. HERMANCE: Will the construction  
16 of this create a view blockage for your  
17 neighbors?

18 MR. KEILHORN: No, it wouldn't,  
19 because there's -- right now there's a  
20 set of trees anyhow. It is away from the  
21 lake if you look at it. The only property,  
22 if there even was one, would be our  
23 property, our deck looking onto the lake.

24 MR. HERMANCE: Is it solid to the  
25 ground or is it open, like an open

2 lien-to type of thing?

3 MR. KEILHORN: It is only the roof.  
4 The rest is open. The roof is -- there's  
5 a roof there specifically to put the  
6 thermal up.

7 MR. HERMANCE: I saw the one there  
8 currently. You're basically going to  
9 extend it the length of --

10 MR. KEILHORN: If you stood on the  
11 deck and saw it, it's all the way to the  
12 left. On the right it's ending where it  
13 is today. We're just putting it on the  
14 left. We need additional surface area to  
15 get enough space for the thermal collectors.  
16 We want to put it on the roof so it isn't  
17 obstructive.

18 CHAIRMAN SCALZO: Again, it's a  
19 beautiful lot.

20 My question is really a boundary  
21 issue. As I looked at the survey that  
22 was provided with the application, it  
23 almost appears that your bar is on  
24 somebody else's property.

25 MR. KEILHORN: Yes. That is --

2            this is how we got the property, right.  
3            The bar itself is not, as far as I can  
4            tell, but certainly the fenced-in area  
5            looks like, according to the survey, it's  
6            on the next neighbor's.

7            CHAIRMAN SCALZO: By course and  
8            distance it appears, but there is also a  
9            note here that the property line may be  
10           in a different spot.

11           We actually had an issue, --

12           MR. DONOVAN: Yes, we did.

13           CHAIRMAN SCALZO: -- an encroachment  
14           over the lake last month.

15           I myself am struggling. It is  
16           difficult to grant variances for things  
17           that we're not quite sure if you have  
18           clear title to. The application itself,  
19           I'm not necessarily -- I still haven't  
20           given or received full comments on it,  
21           but it's very difficult to grant  
22           variances to an encroachment. That's  
23           how this appears on the survey.

24           Yself, I feel as though I would  
25           need a little more clarification as to

2           whether or not you actually own this  
3           area.

4                       MR. KEILHORN:   So I'm no expert at  
5           this.  I got this with all of this in  
6           place, right.  I thought when the  
7           surveyor was done, the setback of where  
8           it would be is about a foot to the  
9           property line.  That's what it says based  
10          on where it is.  This is about where the  
11          bar is.  I'm not a surveyor.  I'm not an  
12          expert.  I'm going by what the survey  
13          has.

14                      When we surveyed this with the  
15          exact location of the property, Darren  
16          said it's .9 feet away from the property  
17          line, which is not where the fence is,  
18          right.  We know that the fence actually  
19          encroaches.

20                      CHAIRMAN SCALZO:  Okay.  I'm going  
21          to continue that way and then we're going  
22          to go that way.

23                      Mr. Masten, do you have any questions  
24          or comments?

25                      MR. MASTEN:  I have nothing.

2                   CHAIRMAN SCALZO: Ms. Rein.

3                   MS. REIN: Not having anything to  
4 do with the property, that Indiana bat  
5 that's an endangered species has been on  
6 every single property that has come  
7 across this Board. I think it should be  
8 taken off the list.

9                   MR. KEILHORN: I did not know that  
10 either.

11                   MS. REIN: It's there. It's living  
12 on your property.

13                   MR. KEILHORN: We have bats for  
14 sure. There's quite a lot of bats. It's  
15 not bad for the mosquitoes, so I'm not  
16 complaining.

17                   CHAIRMAN SCALZO: You can take all  
18 the trees you want down before April 1st.

19                   Ms. Rein.

20                   MS. REIN: I'm good.

21                   CHAIRMAN SCALZO: At this point I'm  
22 going to open it up to any members of the  
23 public that are here that wish to speak  
24 about this application.

25                   (No response.)



2            application seeks an area variance of  
3            front yard and setback for construction  
4            of an accessory structure with solar  
5            heater collectors on the roof to heat a  
6            swimming pool. Be advised that I am the  
7            owner of the adjoining property which  
8            would be affected by the variance and  
9            have no objection to the request." It's  
10           signed by Richard Clarino. Thank you.

11                    That being said, we had no comments  
12                    from the public, I'm going to look back  
13                    to the Board. I'll look to the Board for  
14                    a motion to close the public hearing  
15                    since we didn't have any comments from  
16                    the public.

17                    MR. HERMANCE: I'll make a motion  
18                    to close the public hearing.

19                    MR. EBERHART: I'll second it.

20                    CHAIRMAN SCALZO: We have a motion  
21                    to close from Mr. Hermance. We have a  
22                    second from Mr. Eberhart. All in favor.

23                    MR. EBERHART: Aye.

24                    MR. HERMANCE: Aye.

25                    CHAIRMAN SCALZO: Aye.



2           cabana and bar are, but there are no  
3           courses in distances that surround the  
4           pool. That's why I'm struggling with  
5           understanding --

6                   MR. DONOVAN: Did you draw the red  
7           here?

8                   MR. KEILHORN: No. That was by the  
9           Town here.

10                   CHAIRMAN SCALZO: Joe, did you draw  
11           the red here?

12                   MR. MATTINA: Probably. On the  
13           survey, I thought if you go into  
14           schedules, somewhere in schedule A it  
15           does delineate the property lines as  
16           where the red line is shown.

17                   This survey we have here isn't a  
18           good survey. I think there is a full  
19           survey somewhere that we got this  
20           information from. It might be with the  
21           building permit application.

22                   CHAIRMAN SCALZO: That's fine. I  
23           myself am uncomfortable moving forward on  
24           this, but I am again one of five. I  
25           would like to see the full survey.

2                   I'll look to the Board for --

3                   MR. EBERHART: I would like to  
4                   agree also that we should see the full  
5                   survey before we make any decisions.

6                   MR. KEILHORN: Is that what I  
7                   submitted to you?

8                   MR. MATTINA: Yes.

9                   CHAIRMAN SCALZO: You have the full  
10                  survey?

11                  MR. MATTINA: There should be the  
12                  full survey. That's where the schedules  
13                  come from and that's where we verified  
14                  the red line.

15                  MR. KEILHORN: I wasn't aware of  
16                  that. In the letter it said the letter  
17                  with the piece would be enough. Of  
18                  course I have a copy of the survey.

19                  MS. REIN: The letter that you got  
20                  from the neighbor that would be affected  
21                  by this, does it encroach onto his  
22                  property?

23                  MR. KEILHORN: If it were, it would  
24                  be Rich Clarino's property.

25                  MS. REIN: He seems to have no problem

2 with it.

3 CHAIRMAN SCALZO: That's correct.

4 MR. KEILHORN: The survey -- again,  
5 I don't have it in front of me. I was  
6 not concerned because the survey said,  
7 when I read it, I don't know where that  
8 is, the setbacks were 0.9 feet from the  
9 property line. It's close, but it did  
10 say it wasn't on the property.

11 CHAIRMAN SCALZO: Ms. Rein, if you  
12 look on there, just above the red line  
13 that has the 94.27 dimension on it, there  
14 are two words, gore area. A gore area,  
15 when it comes to surveys and deeds, is an  
16 area that's not defined to be either the  
17 applicant's property or Mr. Clarino's  
18 property. That's what a gore would be.  
19 It's no man's land, if you will.

20 MS. REIN: How do we approach that  
21 legally then?

22 MR. DONOVAN: You have two options.  
23 One is if we get the full survey, it's  
24 going to show the gore area.

25 MR. KEILHORN: I didn't know what

2 that was.

3 MR. DONOVAN: It's no man's land.

4 CHAIRMAN SCALZO: Typically if the  
5 County figures out that there's a gore  
6 there, they'll identify it by tax parcel  
7 and sell it at a tax sale is what  
8 happens.

9 MR. DONOVAN: If the Board wanted  
10 to act, you could act favorably, if you  
11 wanted to, saying that your favorable  
12 decision is based upon your understanding  
13 that this property is on the applicant's  
14 property, for lack of a better word. If  
15 you wanted to. I guess what I'm saying  
16 is, if you get more information, it's  
17 going to be more of the same, though.  
18 No?

19 CHAIRMAN SCALZO: It could be.

20 MS. REIN: I don't really see that  
21 there is a real problem if the neighbor  
22 that it's going to affect is okay with  
23 it.

24 MR. DONOVAN: It's an issue that we  
25 struggled with with the other application,

2               which is approving a variance that  
3               allows an encroachment.

4               MR. EBERHART: We shouldn't do  
5               that.

6               CHAIRMAN SCALZO: It's a little  
7               different than the other one because it  
8               was a defined property line with the  
9               applicant and Orange Lake, Orange Lake  
10              being described as an orphan. This, it's  
11              just --

12             MS. REIN: We don't know if it's an  
13             encroachment.

14             CHAIRMAN SCALZO: Well, --

15             MR. EBERHART: We do know.

16             CHAIRMAN SCALZO: -- by course and  
17             distance -- it extends past the course  
18             and distance that are indicated as the  
19             property lines. It does appear as an  
20             encroachment.

21             MS. REIN: Why was it sent to us?

22             CHAIRMAN SCALZO: Because the  
23             applicant is asking for a front yard  
24             setback to the property line to build the  
25             accessory structure. That's not even why

2 they're here. They're going to build  
3 closer to the road than the house.

4 MS. REIN: Shouldn't this have come  
5 before a different board prior to it  
6 coming here if it's an encroachment?

7 CHAIRMAN SCALZO: I don't know what  
8 board handles that stuff.

9 MS. REIN: I don't know.

10 MS. JABLESNIK: It's just a setback  
11 to the property line.

12 MR. DONOVAN: That's kind of the  
13 issue, where is the property line.

14 MR. KEILHORN: I am not an expert.  
15 This is my first --

16 MR. DONOVAN: I'm a lawyer. I don't  
17 pretend to be an expert.

18 CHAIRMAN SCALZO: We're not looking  
19 at you like it's your fault.

20 MR. KEILHORN: So none of this --  
21 interesting enough, none of that was  
22 explained to us when we bought the  
23 property. I wish somebody had.

24 CHAIRMAN SCALZO: I certainly  
25 wouldn't have let it stop me from buying

2           the property because it's beautiful.

3                   MR. KEILHORN:  There's a property  
4           line which is defined.  The pool where it  
5           was placed, again not by us but whoever  
6           built that pool, built it to be within  
7           that gore, going over, pretty much, or  
8           encroaching into the gore area, if you  
9           want to call it that.

10                   What the surveyor did, in my  
11           understanding, is -- there's no doubt  
12           it's on the gore area.  There's no doubt  
13           about that, right.  There's no doubt  
14           about that.  Assuming that the pool is  
15           there, it's existing wherever it is,  
16           whoever put it there from before.  That  
17           when the survey -- where Rich Clarino's  
18           property starts.  Whether it's  
19           encroaching on that property, my  
20           understanding is the 0.9 feet is exactly  
21           that piece.  It's definitely on the gore  
22           area.  There's no doubt.

23                   CHAIRMAN SCALZO:  Boy, I'd like to  
24           see where Rich Clarino, his property line  
25           is, because it may --



2           that's the case here, but someone decided  
3           in 2009 that there needed to be a lot  
4           line revision.

5           MR. EBERHART: Is that the case we  
6           have here, a lot line revision would be  
7           required before we make a decision?

8           MR. DONOVAN: I'm saying maybe it  
9           was done already, but I don't know. I  
10          have to read that.

11          MR. KEILHORN: My understanding,  
12          looking at this and going back to the  
13          survey, the red line that you drew is, in  
14          essence, the boundary between either our  
15          property and Rich Clarino's property or  
16          the gore area and Rich's property. That's,  
17          again, my understanding.

18          CHAIRMAN SCALZO: It could be.  
19          It's not very clear to me. I'm pretty  
20          okay at reading this stuff.

21          MR. KEILHORN: My understanding,  
22          this is hard to see, this diagonal, this  
23          is our property defined.

24          CHAIRMAN SCALZO: That's the way I  
25          understand it.

2                   MR. KEILHORN: That's our property  
3                   line. This here is the gore area, in my  
4                   understanding. So between here and here,  
5                   this is the gore area, in my understanding.  
6                   I'm not claiming I'm an expert.

7                   CHAIRMAN SCALZO: It could be. It  
8                   appears that Joe Mattina just scribed  
9                   that red line along the chain-link fence.

10                  MR. KEILHORN: No. The chain-link  
11                  fence is beyond that.

12                  CHAIRMAN SCALZO: No, no. On the  
13                  roadside.

14                  MR. KEILHORN: Yes, on the roadside.  
15                  Correct, on the roadside.

16                  MR. EBERHART: The fence line is  
17                  encroaching on Clarino's property?

18                  MR. KEILHORN: The fence, it is  
19                  definitely based on the survey. One  
20                  hundred percent, yes.

21                  CHAIRMAN SCALZO: Let me take eight  
22                  steps backwards. This is to put solar on  
23                  top of the existing or a new?

24                  MR. KEILHORN: It's going to reuse  
25                  whatever we can of the existing one,

2            extend it more or less the same and put  
3            the solar on top.

4            CHAIRMAN SCALZO:    The proposed  
5            portion that you're going to add to this  
6            pergola actually goes away from the road?

7            MR. KEILHORN:    It goes away from  
8            the road, yes.

9            CHAIRMAN SCALZO:    The pergola that  
10           sits there with the bar underneath, that's  
11           not changing at all?

12           MR. KEILHORN:    That's not changing.

13           CHAIRMAN SCALZO:    This is a tough  
14           one.    Explained that way, it's not a  
15           difficult concept to understand.

16           Again Counsel, I'm --

17           MR. DONOVAN:    Well, for the 0.9,  
18           are we sure that that's the correct  
19           boundary line?

20           CHAIRMAN SCALZO:    I'm not sure.

21           MR. KEILHORN:    It's based on --

22           MR. DONOVAN:    This gentleman's  
23           property, that's what we're not sure of.  
24           Right?

25           CHAIRMAN SCALZO:    Right.

2                   MR. KEILHORN: 0.9 is based on the  
3                   dimension of the drawing of the pergola  
4                   in relation to where it stands to the  
5                   property line/pool. So that's how it's  
6                   placed, right.

7                   CHAIRMAN SCALZO: Let me volley  
8                   back to you. How would this decision be  
9                   written?

10                  MR. DONOVAN: It would be written  
11                  with the Board making the assumption, if  
12                  that's the right word, that the property  
13                  is owned by the applicant, and if the  
14                  property is not owned by the applicant,  
15                  then the decision is not effective. We  
16                  can't give a variance on somebody else's  
17                  property.

18                  CHAIRMAN SCALZO: That's correct.

19                  MR. DONOVAN: If the Board is  
20                  comfortable with that. Or if you want  
21                  more information -- I don't know what  
22                  more information you --

23                  MR. KEILHORN: That would be my  
24                  question to you. Other than going back  
25                  to the surveyor, right.

2                   MR. DONOVAN:  There's an unknown  
3                   there.  I really can't give you advice.  
4                   It would be nice to be able to close  
5                   that --

6                   MR. EBERHART:  Even if we had the  
7                   survey, it doesn't clarify the situation.

8                   CHAIRMAN SCALZO:  No, it doesn't.  
9                   However, there's an identified gore that  
10                  we're looking at.  That gore, in my  
11                  opinion, you need the two sides of it.  
12                  We don't see the other side.  Or if I do,  
13                  I'm missing it on the map.  It would have  
14                  been nice to see a line leading from  
15                  wherever Mr. Clarino's property starts  
16                  and how it reaches the right-of-way line.  
17                  That would at least help me better  
18                  understand what this gore is.

19                  MR. DONOVAN:  What area does it  
20                  cover?  The whole rectangle?

21                  CHAIRMAN SCALZO:  I don't know.

22                  MR. DONOVAN:  It points to one spot  
23                  here.

24                  MR. KEILHORN:  It's this weird  
25                  shape here.



2               with this?

3               MR. MASTEN: I don't have anything  
4               right now.

5               CHAIRMAN SCALZO: I just wanted to  
6               -- I felt as though there was a this-  
7               side-of-the-table dominant conversation.

8               MS. REIN: I just think Dave came  
9               up with a pretty good solution, if we  
10              wanted to approve it with that condition.

11              MR. DONOVAN: If you wanted more  
12              information, I would never say no.

13              MS. REIN: Of course not.

14              MR. EBERHART: For myself, I would  
15              want more information. I just want  
16              clarity.

17              CHAIRMAN SCALZO: All right.

18              MR. KEILHORN: Here's my question  
19              to you, right. I mean, of course I'm  
20              okay with providing you the information.  
21              I would, of course, appreciate it if I  
22              don't have to wait another month to get  
23              an approval.

24              CHAIRMAN SCALZO: Unfortunately we  
25              only meet once a month.

2                   MR. KEILHORN: I know. That is my  
3 question. Is there a way that if I give  
4 you the information -- I don't know how  
5 the process is, how you operate. You see  
6 what I'm saying? I don't want to stop --  
7 if avoidable, I don't want to wait another  
8 month, provided it turns out okay from  
9 your side. I understand it's a monthly  
10 meeting.

11                   CHAIRMAN SCALZO: All right.  
12 Counsel, let me ask you this. Let's say  
13 we were to go through the factors, or do  
14 we -- I really think we should wait.

15                   MR. DONOVAN: That's up to you guys.

16                   CHAIRMAN SCALZO: I would like to  
17 see the full survey. There may be some  
18 notes on the survey that address what  
19 we're looking at here. That's my position.  
20 I know Ms. Rein has a different look at  
21 it.

22                   MS. REIN: I'm not an engineer.

23                   CHAIRMAN SCALZO: You don't have to  
24 be.

25                   MS. REIN: I'm only a doctor.

2                   CHAIRMAN SCALZO:  Where are we  
3                   going, folks?

4                   MR. EBERHART:  As I said, I would  
5                   like more clarity.

6                   CHAIRMAN SCALZO:  Make a motion to  
7                   hold this open until next month and have  
8                   the applicant provide us with the full  
9                   survey?

10                  MR. DONOVAN:  You should see if  
11                  there's anyone from the public that wants  
12                  to speak.

13                  CHAIRMAN SCALZO:  We closed the  
14                  public hearing.

15                  MR. DONOVAN:  Because no one wanted  
16                  to speak.  I missed that part?

17                  CHAIRMAN SCALZO:  Yes.

18                  MR. DONOVAN:  I was trying to  
19                  figure out what to do with the gore.

20                  CHAIRMAN SCALZO:  Okay.  So I'll look  
21                  to the Board for a motion to keep the --  
22                  well, defer our determination --

23                  MR. HERMANCE:  We get more information.

24                  CHAIRMAN SCALZO:  -- to the April  
25                  meeting.

2                   MR. EBERHART: I'll make the motion  
3                   that we defer our determination until we  
4                   get further information.

5                   MR. HERMANCE: I'll second it.

6                   CHAIRMAN SCALZO: We have a motion  
7                   from Mr. Eberhart. We have a second from  
8                   Mr. Hermance. All in favor on that.

9                   MR. EBERHART: Aye.

10                  MR. HERMANCE: Aye.

11                  CHAIRMAN SCALZO: Aye.

12                  MR. MASTEN: Aye.

13                  CHAIRMAN SCALZO: Those opposed?

14                  MS. REIN: Me.

15                  CHAIRMAN SCALZO: Very good. It's  
16                  still four to one, so we're going to hold  
17                  it open until April.

18                  I apologize. We only meet once a  
19                  month.

20                  Please reach out to your surveyor  
21                  and have him supply, unless Mr. Mattina  
22                  has it in his files --

23                  MS. JABLESNIK: I have his file in  
24                  my office. I will send that over  
25                  tomorrow.

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CHAIRMAN SCALZO: Hopefully there's a note on there that clarifies this.

MR. KEILHORN: I wish I had known that. It's there. It's not anything, you know --

CHAIRMAN SCALZO: Right. I understand that. We can only do with the information we're provided at the time. We're doing the best we can. I apologize that we're going to have to have you back next month, but we're going to have you back next month.

MR. KEILHORN: Thank you.

(Time noted: 7:45 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 6th day of April 2026.

*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

JEFF STEWART  
(DUNKIN DONUTS)

1406 Route 300, Newburgh  
Section 66; Block 3; Lot 20  
IB Zone

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Date: March 26, 2026  
Time: 7:45 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: ROSEMARY TRAVIS

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

2                    C H A I R M A N   S C A L Z O :   I   a m   s o r r y ,  
3                    f o l k s .   I ' m   4 5   m i n u t e s   i n   a n d   w e ' r e   o n l y  
4                    o n   n u m b e r   t h r e e .

5                    J e f f   S t e w a r t ,   1 4 0 6   R o u t e   3 0 0 ,  
6                    s e e k i n g   a r e a   v a r i a n c e s   t o   a l l o w   t h e  
7                    i n s t a l l a t i o n   o f   a   d r i v e - t h r u   c a n o p y   a n d  
8                    d i g i t a l   m e n u   b o a r d   a n d ,   B ,   a l t e r a t i o n s   t o  
9                    r e f u r b i s h   a n   e x i s t i n g   n o n c o n f o r m i n g  
10                    f r e e s t a n d i n g   s i g n .

11                    S i o b h a n ,   d o   w e   h a v e   m a i l i n g s   o n  
12                    t h i s ?

13                    M S .   J A B L E S N I K :   T h i s   a p p l i c a n t   s e n t  
14                    4 9   l e t t e r s .

15                    C H A I R M A N   S C A L Z O :   4 9   l e t t e r s .

16                    B e c a u s e   t h i s   i s   o n   R o u t e   3 0 0 ,   d o   w e  
17                    h a v e   t h e   G M L - 2 3 9   r e s p o n s e ?

18                    M S .   J A B L E S N I K :   W e   d o .   I t   w a s   a  
19                    l o c a l   d e t e r m i n a t i o n .

20                    C H A I R M A N   S C A L Z O :   L o c a l   d e t e r m i n a t i o n .  
21                    T h a t   i s   w o n d e r f u l .

22                    W h o   d o   w e   h a v e   h e r e   f o r   t h i s  
23                    a p p l i c a t i o n ?

24                    M S .   T R A V I S :   R o s e m a r y   T r a v i s .   I ' m  
25                    h e r e   t o   r e p r e s e n t   t h e   a p p l i c a t i o n

2                requesting the two variances.

3                        This should be straightforward.

4                We're looking for two variances, as you  
5                mentioned. The first one is to replace  
6                the existing drive-thru which is an order  
7                canopy and a menu board. We're looking  
8                to replace the existing static menu board  
9                with a digital, better technology, better  
10                for our customers. It would be the menu  
11                board and the order canopy.

12                        We are also looking to reface the  
13                existing sign area on the shared pylon  
14                sign. There's no modification to the  
15                existing pylon sign. There's nothing  
16                we're adjusting on the structure. We're  
17                just looking to reface the sign based on  
18                the new branding. That's essentially  
19                what we're looking for.

20                        All the drive-thru menus will be  
21                replaced in their exact locations. It's  
22                just going through the whole re-branding  
23                of the Dunkin, removing the "Donuts" from  
24                their signage. That's what we're here  
25                for.

2                    We did drive around the area and we  
3                    saw that there are similar quick service  
4                    restaurants that have the same type of  
5                    technology for their menu boards. We  
6                    don't see this change or this request for  
7                    the variance to be something that will go  
8                    away or pull away from what's going on  
9                    out on the -- around the area.

10                   The applicant, with my professional  
11                   advice, doesn't think that this is going  
12                   to have an impact on how the store runs  
13                   or the other restaurants or other  
14                   commercial businesses around the area.

15                   CHAIRMAN SCALZO: Thank you.

16                   MS. TRAVIS: You're welcome.

17                   CHAIRMAN SCALZO: If you can  
18                   believe it, I have no comments on this.

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

20                   MS. REIN: I'm good.

21                   CHAIRMAN SCALZO: Mr. Masten.

22                   MR. MASTEN: When I was there, I  
23                   walked around the building two times and  
24                   didn't see the signage from the Zoning  
25                   Board. I saw the sign where you wanted

2            the canopy and the sign where you came in  
3            to talk to people. That was it. I  
4            didn't see a sign for the Zoning Board.

5            CHAIRMAN SCALZO: The postings?

6            MR. MASTEN: The posting.

7            MS. TRAVIS: Sorry. I didn't  
8            realize there was none.

9            CHAIRMAN SCALZO: Mr. Masten, it's  
10           very important that the postings go up,  
11           so that's a good observation.

12           Any other comments or questions  
13           with regard to the application?

14           MR. MASTEN: Not right now.

15           CHAIRMAN SCALZO: Mr. Hermance.

16           MR. HERMANCE: So the Dunkin Donuts  
17           sign won't grow in length or height?  
18           It's just a different refacing of the  
19           existing sign?

20           MS. TRAVIS: Correct. We won't  
21           alter the existing pylon sign. Whatever  
22           is designated for the Dunkin tenant will  
23           remain the same. It's just the new logo.

24           MR. HERMANCE: That's all I have.

25           CHAIRMAN SCALZO: Mr. Eberhart.

2                    M R .   E B E R H A R T :    N o   q u e s t i o n s .

3                    M S .   R E I N :    A   q u i c k   q u e s t i o n .    I s  
4                    t h e r e   g o i n g   t o   b e   a n y   i l l u m i n a t i o n   a d d e d ?

5                    M S .   T R A V I S :    I n   t h e   s i g n ?    I t ' s  
6                    a l r e a d y   a n   e x i s t i n g   i n t e r n a l l y  
7                    i l l u m i n a t e d   s i g n .

8                    M S .   R E I N :    T h a t ' s   h o w   i t ' s   g o i n g   t o  
9                    s t a y ?

10                    M S .   T R A V I S :    I t ' s   g o i n g   t o   s t a y   t h e  
11                    s a m e .

12                    M R .   E B E R H A R T :    Y o u   j u s t   w e n t   f r o m  
13                    " D u n k i n   D o n u t s "   t o   " D u n k i n " ?

14                    M S .   T R A V I S :    C o r r e c t .

15                    C H A I R M A N   S C A L Z O :    Y o u r   d r i v e - t h r u  
16                    c a n o p y   a n d   d i g i t a l   m e n u   b o a r d ,   w i t h  
17                    r e g a r d   t o   t h e   w a y   i t ' s   f a c i n g ,   I   d o n ' t  
18                    k n o w   t h a t   i t   w o u l d   b e   a   f l a s h   i n   a n y o n e ' s  
19                    b a c k y a r d .    T h e r e   a r e   o n l y   a   f e w   r e s i d e n t i a l  
20                    d w e l l i n g s   b e h i n d   t h e r e .

21                    I s   i t   g o i n g   t o   b e   a n y   b r i g h t e r   t h a n  
22                    w h a t ' s   t h e r e   c u r r e n t l y ?

23                    M S .   T R A V I S :    N o .    I t ' s   a l s o  
24                    a d j u s t a b l e .    I f   t h e r e ' s   a n y   f e e d b a c k   t h a t  
25                    w e   g e t   f r o m   t h e   n e i g h b o r s ,   i t   i s

2                adjustable.

3                We also looked around and there's  
4                already landscape blocking the view. I  
5                don't believe there's any impact on the  
6                residential units.

7                CHAIRMAN SCALZO: Thank you.

8                At this time I'm going to open it  
9                up to any members of the public that wish  
10               to comment on the application for Dunkin  
11               on Route 300.

12               (No response.)

13               CHAIRMAN SCALZO: Okay. I'll go  
14               back to the Board. Any comments or  
15               questions?

16               (No response.)

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

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

22               MR. MASTEN: I'll second it.

23               CHAIRMAN SCALZO: We have a motion  
24               to close the public hearing from Mr. Eberhart.  
25               We have a second from Mr. Masten. All in



2                there was a picture of it.

3                CHAIRMAN SCALZO: Mr. Masten, you  
4                said you walked around the building?

5                MR. MASTEN: I looked around there  
6                twice, Darrin.

7                CHAIRMAN SCALZO: That's fine,  
8                Mr. Masten.

9                From being posted here, like I  
10               say, I happen -- I wasn't looking for  
11               that when I visited the site. We have  
12               a photo that indicates that at one point  
13               it was in place.

14               MR. MASTEN: That's the first thing  
15               I look for when I go to the sites, to see  
16               the paperwork.

17               MS. REIN: There is a possibility  
18               the weather had something to do with  
19               that.

20               CHAIRMAN SCALZO: We've had some  
21               windy days there. Okay.

22               Counsel?

23               MR. DONOVAN: You can proceed.

24               CHAIRMAN SCALZO: We can proceed.

25               I just wanted to verify we could. Thank

2            you.

3                    So the public hearing is closed.

4                    Counsel, this is a --

5                    MR. DONOVAN: It is a Type 2.

6                    CHAIRMAN SCALZO: All right. Thank

7                    you.

8                    So we're going to discuss the five  
9                    factors we're weighing again, the first  
10                   one being whether or not the benefit can  
11                   be achieved by other means feasible to  
12                   the applicant. That would be a no.

13                   Second, if there's an undesirable  
14                   change in the neighborhood character or a  
15                   detriment to nearby properties.

16                   MS. REIN: No.

17                   CHAIRMAN SCALZO: No.

18                   Third, whether the request is  
19                   substantial. Again, it's almost replacing  
20                   in kind, just with newer technology and  
21                   a different brand.

22                   The fourth, whether the request will  
23                   have adverse physical or environmental  
24                   effects.

25                   MS. REIN: No.

2                   MR. EBERHART:   No.

3                   CHAIRMAN SCALZO:   It does not  
4           appear so.

5                   The fifth, whether the alleged  
6           difficulty is self-created which is  
7           relevant but not determinative.  Of  
8           course it's self-created.  If it wasn't,  
9           Counsel would remind me that it isn't.

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

13                  MS. REIN:   I'll make a motion to  
14           approve.

15                  MR. EBERHART:   I'll second it.

16                  CHAIRMAN SCALZO:   We have a motion  
17           for approval from Ms. Rein.  We have a  
18           second from Mr. Eberhart.

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

21                  MS. JABLESNIK:   Mr. Eberhart.

22                  MR. EBERHART:   Yes.

23                  MS. JABLESNIK:   Mr. Hermance.

24                  MR. HERMANCE:   Yes.

25                  MS. JABLESNIK:   Mr. Masten.

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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. Good luck.

MS. TRAVIS: Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 6th day of March 2026.

*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

DEBRA McCABE

254 Route 17K, Suites 104 & 105, Newburgh  
Section 86; Block 1; Lot 86  
IB Zone

- - - - - X

Date: March 26, 2026  
Time: 7:53 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: JOSEPH MINUTA

- - - - - X

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

2 CHAIRMAN SCALZO: Our next  
3 applicant is Debra McCabe, 254 Route 17K,  
4 Suites 104 and 105. This is a Planning  
5 Board referral for an area variance of a  
6 preexisting nonconforming front yard  
7 setback to permit the occupancy of suites  
8 within an existing building for a  
9 proposed cannabis dispensary facility.  
10 The applicant is also requesting an  
11 alternative means to dispose of the  
12 cannabis waste through an interpretation  
13 or variance. The applicant seeks to  
14 store their waste in a secured product  
15 area for retrieval by their distributors.

16 Siobhan, do we have mailings on  
17 this?

18 MS. JABLESNIK: This applicant sent  
19 19 letters.

20 CHAIRMAN SCALZO: 19 letters. Okay.  
21 It is on 17K. Do we have GML?

22 MS. JABLESNIK: Local determination.

23 CHAIRMAN SCALZO: Local determination.

24 I know who you are. Who do we have  
25 with us?



2 These regulations are continually  
3 updated. In fact, they were just updated  
4 in February again.

5 I think there's a flaw there in  
6 that the dispensary cannot place any of  
7 its product in a dumpster/container. It  
8 all goes back to its source. So you  
9 clean it up on the floor, it's going back  
10 to the source. They have to have two  
11 certified individuals who have custody of  
12 these things. Both individuals have to  
13 verify that product and how it is  
14 dispensed or -- not dispensed, discarded.  
15 So very strict regulations for that.

16 Having a locking dumpster on the  
17 site doesn't really make sense because  
18 they're not putting their product in a  
19 dumpster on the site that's going to be  
20 locked that someone can go to. It's held  
21 within and then they come and pick it up.  
22 That's where I'm at for the interpretation.

23 MR. DONOVAN: What provision of the  
24 code are we talking about?

25 CHAIRMAN SCALZO: I'm going to have

2            to look to Mr. Mattina to help me on  
3            this one.

4            MR. DONOVAN:    Dominic states that  
5            the Town of Newburgh has previously  
6            required.

7            I don't have an issue with you  
8            doing it, I just don't know what we're  
9            varying or what we're interpreting.

10           MR. EBERHART:    What's the standard  
11           way of disposing it?

12           MR. DONOVAN:    I didn't know there  
13           was waste.

14           MR. MINUTA:    As in every business.

15           MR. DONOVAN:    Eventually I have to  
16           write this.    There's no problem with it.  
17           I don't know what you're varying or  
18           interpreting.    Dominic doesn't cite  
19           anything.    The setback is easy.

20           MR. MINUTA:    It is under the  
21           cannabis law, the zoning law here.

22           MR. DONOVAN:    The Town of Newburgh?

23           MR. MINUTA:    Town of Newburgh, yes.  
24           Essentially what happens is the Town of  
25           Newburgh took their law on this from OCM.

2 That's how it was explained to me. In  
3 doing so, it's been updated since. So an  
4 interpretation of how this is done --  
5 I've done several dispensaries. The  
6 lock-ability becomes an item that the  
7 Planning Board typically wants because  
8 it's in the law.

9 With respect to how OCM allows you  
10 to discard it, that becomes a situation  
11 where if you don't need a lockable  
12 dumpster, why would you have one.

13 CHAIRMAN SCALZO: Counsel, to  
14 overcome this, could we say no  
15 interpretation is required, therefore no  
16 variance is required?

17 MR. DONOVAN: Yeah, sure.

18 MR. MINUTA: It's not a variance.  
19 The interpretation is you would allow us  
20 to do what OCM is saying we can do by not  
21 providing a lockable dumpster on the  
22 exterior. We don't want to have a whole  
23 other dumpster that's going to have a  
24 lock on it for product that's not going  
25 to go in there.

2 MS. REIN: The product is being  
3 packaged by somebody who is credited to  
4 do this or credentialed to do this and  
5 then it's being taken away from the site.  
6 That's why you don't need the extra  
7 dumpster?

8 MR. MINUTA: Just like a pharmacy.  
9 You don't bring your extra medication to  
10 the pharmacy and they dump it in the  
11 backyard. It has to go through the  
12 appropriate channels.

13 CHAIRMAN SCALZO: That's a great  
14 analogy.

15 MR. DONOVAN: Is it in Chapter 185?

16 MR. MINUTA: I'm not a lawyer.

17 MR. MATTINA: 185-48.9.

18 MR. MINUTA: Thank you, Mr. Mattina.

19 MS. REIN: There's no law against  
20 it being distributed that way, being  
21 picked up by --

22 MR. DONOVAN: How do you dispose of  
23 it? Is it similar to red bag waste?

24 MR. MINUTA: It is prescribed  
25 through OCM -- bear with me.

2 CHAIRMAN SCALZO: You said it was  
3 going to be easy.

4 MR. MINUTA: It is easy. This is a  
5 little discussion.

6 So you have a couple options here.  
7 You can do a licensed waste transporter  
8 delivering it New York State Environmental  
9 Conservation, a DEC-permitted solid waste  
10 management facility. You can have on-  
11 site management managing disposal on site  
12 in accordance with DEC requirements and  
13 returned to distributor -- returning the  
14 product to the distributor that sold it.  
15 That's pretty much what they do here.

16 Specific restrictions, products  
17 containing battery, glass.

18 When it comes to exterior  
19 receptacles, and this is where the code  
20 comes in, or your code comes in, any  
21 exterior cannabis waste containers on the  
22 premises must be locked and secured to  
23 prevent unauthorized access. That's all  
24 fine and well if you're providing  
25 cannabis outside to be picked up. That's

2 not what's happening here.

3 MR. DONOVAN: So there's no outside  
4 disposal of cannabis residue, waste,  
5 whatever?

6 MR. MINUTA: Correct.

7 MR. DONOVAN: Therefore your  
8 position is you don't need --

9 MR. MINUTA: An exterior dumpster  
10 in order to have it be lockable for  
11 cannabis product.

12 MS. REIN: Do you have an indoor  
13 one? It's not saying it has to be  
14 outdoors.

15 MR. MINUTA: No. The indoor is  
16 strictly saying that it has to be  
17 returned to the distributor that sold it.  
18 If it's inside the facility, it's already  
19 naturally locked. All this stuff stays  
20 inside in either a lockable room or  
21 within the fulfillment area.

22 MS. REIN: Okay.

23 MR. EBERHART: I understand.

24 CHAIRMAN SCALZO: All right.

25 MR. MINUTA: We don't want to

2            capriciously or arbitrarily have a  
3            dumpster for no reason.

4            CHAIRMAN SCALZO:    Understood.

5            MS. REIN:    I wonder why this is the  
6            first time this has come up, to my  
7            knowledge anyway.    We've had other  
8            dispensaries come before us.

9            MR. DONOVAN:    They must have had  
10           the lockable --

11           MR. MINUTA:    They didn't have me.

12           CHAIRMAN SCALZO:    Okay.    So at this  
13           point I'll open it up to any members of  
14           the public that wish to speak about this  
15           application.

16           (No response.)

17           CHAIRMAN SCALZO:    Nobody wants to  
18           talk about anything.

19           MR. MINUTA:    Drum roll.

20           CHAIRMAN SCALZO:    Back to the  
21           Board.    Anything?

22           (No response.)

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

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

4 MR. MASTEN: I'll second it.

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

8 MR. EBERHART: Aye.

9 MR. HERMANCE: Aye.

10 CHAIRMAN SCALZO: Aye.

11 MR. MASTEN: Aye.

12 MS. REIN: Aye.

13 CHAIRMAN SCALZO: Those opposed?  
14 (No response.)

15 CHAIRMAN SCALZO: Very good.

16 Counsel, the setback is obviously a  
17 Type 2, but with the other interpretation,  
18 it's not --

19 MR. DONOVAN: The interpretation is  
20 it's a Type 2.

21 CHAIRMAN SCALZO: We're going to  
22 roll through the five factors again, the  
23 first one being whether or not the  
24 benefit can be achieved by other means  
25 feasible. No.

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

5                    MR. EBERHART:    No.

6                    MR. HERMANCE:    No.

7                    CHAIRMAN SCALZO:  Third, whether  
8                    the request is substantial.

9                    MR. EBERHART:    No.

10                   MR. HERMANCE:    No.

11                   MR. MASTEN:      No.

12                   MS. REIN:        No.

13                   CHAIRMAN SCALZO:  Fourth, whether  
14                   the request will have adverse physical or  
15                   environmental effects.

16                   MR. EBERHART:    No.

17                   MR. HERMANCE:    No.

18                   MR. MASTEN:      No.

19                   MS. REIN:        No.

20                   CHAIRMAN SCALZO:  And the fifth,  
21                   whether the alleged difficulty is self-  
22                   created which is relevant but not  
23                   determinative.

24                   Now, the zoning changed --

25                   MR. DONOVAN:    Are you ready for

2 this? This is not a self-created  
3 hardship because the building was there  
4 and the zoning changed. It's not  
5 self-created.

6 MS. REIN: That's one for the books.

7 CHAIRMAN SCALZO: How about that.

8 Okay. Having gone through the  
9 balancing tests of the area variance,  
10 what's the pleasure of the Board?

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

13 MR. HERMANCENCE: I'll second it.

14 CHAIRMAN SCALZO: We have a motion  
15 from Mr. Eberhart. We have a second from  
16 Mr. Hermance.

17 MS. REIN: This is for?

18 CHAIRMAN SCALZO: Just one. The  
19 interpretation doesn't need it.

20 MS. REIN: So this is --

21 MR. DONOVAN: The interpretation,  
22 are you going to do that next?

23 CHAIRMAN SCALZO: No. We can cover  
24 them both. I just read through them. We  
25 still had to read through the five

2            factors.

3            MS. REIN: I just have one comment,  
4            though. Again, this thing is --

5            CHAIRMAN SCALZO: Is it about bats?

6            MS. REIN: Is it about what?

7            CHAIRMAN SCALZO: The Indiana bat.

8            MS. REIN: The Indian bat is there.  
9            No. It's about remediation for hazardous  
10           waste.

11           MR. MINUTA: The same thing. May  
12           I?

13           So listen, we're just contaminated  
14           all over the place. You know, it's real  
15           simple. Not every place, right. But as  
16           you saw earlier along the Hudson River,  
17           I'm doing a project down in Highlands.  
18           They're contaminated there, too, because  
19           of that. There are other things that  
20           happened adjacent to the property. It's  
21           not the property itself. That's why  
22           those things pop up. We actually  
23           provided the information as to where that  
24           contamination is.

25           MS. REIN: I saw that. I have to

2 ask. It's my job.

3 MR. MINUTA: I used to be in your  
4 position, so I appreciate it.

5 CHAIRMAN SCALZO: We're lucky to  
6 have her because I kind of tend to ignore  
7 the short form stuff. Donna is all over  
8 it.

9 MS. REIN: I read everything.

10 MR. MINUTA: As you should.

11 CHAIRMAN SCALZO: Having gone  
12 through the balancing tests for both the  
13 interpretation as well as the front yard  
14 setback requirements, does the Board have  
15 a motion -- I got a motion for approval  
16 from Mr. Eberhart. I think I got the  
17 second from Mr. Hermance.

18 Now can you roll on that, Siobhan.

19 MS. JABLESNIK: Mr. Eberhart.

20 MR. EBERHART: Yes.

21 MS. JABLESNIK: Mr. Hermance.

22 MR. HERMANCE: Yes.

23 MS. JABLESNIK: Mr. Masten.

24 MR. MASTEN: Yes.

25 MS. JABLESNIK: Ms. Rein.

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MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo.

CHAIRMAN SCALZO: Yes.

The motion is carried. The  
variances are approved.

Good luck, sir.

MR. MINUTA: The interpretation is?

MR. DONOVAN: The interpretation is  
that you're not required to have an  
outdoor dumpster locked because you're  
not disposing any cannabis waste outside.

MR. MINUTA: Thank you, Mr. Donovan.  
Everybody have a wonderful evening.

(Time noted: 8:06 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 6th day of April 2026.

*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

READY COFFEE  
1422 Route 300, Newburgh  
Section 60; Block 3; Lot 23  
IB Zone

----- X

Date: March 26, 2026  
Time: 8:06 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: SEAN PETERS

----- X

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

2 CHAIRMAN SCALZO: Our next  
3 applicant is Ready Coffee, 1422 Route  
4 300. This is also a Planning Board  
5 referral. They're requesting variances  
6 for, A, the proposed project to be a  
7 standalone and not in conjunction with  
8 a shopping center, theater or office;  
9 B, lot size, rear yard, side yard and  
10 both side yards for a proposed new  
11 drive-thru coffee facility.

12 Siobhan, do we have mailings on  
13 this?

14 MS. JABLESNIK: This applicant sent  
15 16 whole letters.

16 CHAIRMAN SCALZO: 16 big ones.  
17 And GML-239.

18 MS. JABLESNIK: Local determination.

19 CHAIRMAN SCALZO: The County is on  
20 top of things.

21 MS. JABLESNIK: They just trust  
22 your judgment.

23 CHAIRMAN SCALZO: For them I'm  
24 number one.

25 Having read that very lengthy one

2 sentence, who do we have with us?

3 MR. PETERS: I'm Sean Peters, H2M  
4 Architects & Engineers. I'm joined by  
5 representatives of Ready Coffee.

6 I'd like to give the Board just a  
7 little background on the project. So  
8 this existing site is a very small parcel  
9 within the zoning district. The site is  
10 currently developed by a smoke shop.  
11 It's about 1,300 square feet.

12 The proposed project proposes a  
13 building that's a little under 700 square  
14 feet, so roughly half the size of the  
15 building that's existing currently on  
16 that parcel.

17 We had appeared before the Planning  
18 Board for an initial application, and  
19 have since also talked to the DOT. We  
20 felt that getting input early on from the  
21 DOT was a big driver for where the  
22 building is located on the site, which is  
23 certainly something we'll speak to with  
24 the area variance.

25 Obviously we're here also today for

2 a use variance. Just to start with that,  
3 I did want to draw to the Board's  
4 attention the fact that within this  
5 zoning district there are also two other  
6 fast food establishments. I believe  
7 right here, yeah, we have the --

8 MR. DONOVAN: Let me stop you. You  
9 said a bad word.

10 CHAIRMAN SCALZO: You said use variance.

11 MR. PETERS: I'm sorry. We have the  
12 Taco Bell and the Wendy's which are already  
13 existing drive-thru uses within that Route  
14 300 corridor on their own individual lots.

15 CHAIRMAN SCALZO: Hang on one second.  
16 Counsel, we're still figuring out  
17 why we need a use variance here.

18 MR. DONOVAN: There's no application  
19 for a use variance. There's an application  
20 for an area variance. Oh, I see you  
21 checked use variance.

22 This didn't come through your office,  
23 Joe?

24 MR. MATTINA: The use variance is  
25 going to be -- the bulk table for the IB

2 Zone does not allow a restaurant/food  
3 establishment that's not in association  
4 with something else.

5 MS. JABLESNIK: Like McDonald's is  
6 with the mall.

7 MR. DONOVAN: I apologize for not  
8 picking up on this earlier. You can't  
9 have a use variance referred by the  
10 Planning Board. They can only refer area  
11 variances. This is going to have to go  
12 through the Building Department. If in  
13 fact it's a use variance and -- if in  
14 fact it's a use variance, you have a  
15 whole plethora of evidence that you need  
16 to provide to the Board before they can  
17 give you a use variance. You need  
18 competent financials, what the courts  
19 call dollars and cents proof, that shows  
20 that you can't develop this property for  
21 any other use other than what you've  
22 proposed in order to even get past go.

23 You also are going to get back to  
24 the self-created hardship. In the  
25 context of a use variance, if the

2 hardship is self-created, in other words  
3 if you know you can't do this and you  
4 purchased the property knowing, you're  
5 imputing the knowledge to the Zoning  
6 Board that you can't do this. A  
7 self-created hardship in the context of a  
8 use variance is a dead end.

9 CHAIRMAN SCALZO: Unlike an area  
10 variance where we weigh five factors, you  
11 don't necessarily have to get all five in  
12 your favor for it to be passed. Three  
13 out of four on a use variance is still a  
14 fail.

15 MS. REIN: Isn't that the same  
16 thing as the other Ready Coffee they have  
17 that's by McDonald's but it's just a  
18 standalone?

19 CHAIRMAN SCALZO: It's a standalone  
20 but the lot itself is part of that mall.

21 MR. MATTINA: It's part of that  
22 shopping center.

23 MR. DONOVAN: The use is permitted,  
24 just not --

25 MR. MATTINA: Well, bulk table

2 schedule 8, restaurants and fast food  
3 establishments are permitted in  
4 conjunction with shopping centers, movie  
5 theaters and office and business parks.  
6 That's the only place a restaurant or  
7 food service is permitted.

8 MR. EBERHART: Where it was part of  
9 the Showtime Cinema there?

10 MR. MATTINA: That's a different  
11 lot.

12 MR. HERMANC: That's the lot  
13 behind it.

14 MR. PETERS: It's a separate lot.

15 The point I was making is that  
16 there is already, along that Route 300  
17 corridor, an existing Taco Bell and a  
18 Wendy's that are on their own lots and  
19 are the exact same use or a similar use  
20 with what we're proposing with a  
21 drive-thru fast food establishment.

22 MR. DONOVAN: In my view we do have  
23 an application for a use variance which  
24 is not supported by the evidence that it  
25 needs. I don't know whether you want to

2 consult with somebody else and try to  
3 make an argument that you don't need a  
4 use variance.

5 I'm just going to tell you, my  
6 advice to the Board would be there's not  
7 anywhere near the proof that you would  
8 need, appraisal proof, what's the  
9 property worth, what it's worth if you  
10 can't do this. There's a lot of  
11 financial evidence that needs to go into  
12 this. It's very difficult to get a use  
13 variance.

14 Sometimes people come here and they  
15 make an argument and they request an  
16 interpretation that the use is allowed.  
17 I don't know. I can't make that argument  
18 for you. I advise the Board.

19 My advice tonight is you don't have  
20 the information necessary to get a use  
21 variance, that's for sure.

22 CHAIRMAN SCALZO: We can allow you  
23 to continue to present, but we can --  
24 certainly as presented as a use variance,  
25 if we were to vote on it this evening,

2 you wouldn't be happy with the vote.  
3 We could give you an opportunity to  
4 go gather the other information.  
5 We'll leave it up to you.

6 MR. PETERS: Thank you.

7 CHAIRMAN SCALZO: Thank you.

8 So that being said, I don't know  
9 how long you think you may need for this.  
10 We've got a couple things we have to do.  
11 As a Board we have to take a vote to  
12 leave the public hearing open, or do they  
13 need to go back to -- we need to get a  
14 referral from the Building Department I  
15 guess.

16 MR. DONOVAN: For a use variance it  
17 needs to come from the Building Department.  
18 The Planning Board doesn't have the  
19 jurisdiction to refer a use variance.

20 CHAIRMAN SCALZO: Okay.

21 MR. DONOVAN: I didn't look at the  
22 line that says use variance in your  
23 application. I apologize for that. I  
24 read Dominic's referral letter from the  
25 Planning Board which doesn't use the word

2 use variance. That's kind of what I --

3 MR. PETERS: Indirectly.

4 CHAIRMAN SCALZO: I think the next  
5 steps are -- what we'll do is, as a  
6 Board, I'm going to look to the Board for  
7 a motion to keep the public hearing open  
8 until the April meeting. That will give  
9 you a chance to marshal your argument,  
10 make contact with the Building Department  
11 and figure out what you need to do. If  
12 you need to come back to us next month  
13 and say we need more time. We've  
14 established that most applicants that  
15 request an additional amount of time  
16 to assemble their information, historically  
17 we're pretty good about that.

18 MR. DONOVAN: Just keep in touch.  
19 Historically we're not very good if you  
20 don't keep in touch with us.

21 CHAIRMAN SCALZO: That being said,  
22 I'll look to the Board for a motion to  
23 keep the public hearing open until April.

24 MR. EBERHART: I'll make a motion  
25 to keep it open until April.

2 MR. MASTEN: I'll second it.

3 CHAIRMAN SCALZO: We have a motion  
4 from Mr. Eberhart. We have a second from  
5 Mr. Masten. All in favor.

6 MR. EBERHART: Aye.

7 MR. HERMANCENCE: Aye.

8 CHAIRMAN SCALZO: Aye.

9 MR. MASTEN: Aye.

10 MS. REIN: Aye.

11 CHAIRMAN SCALZO: Those opposed?

12 (No response.)

13 CHAIRMAN SCALZO: Very good. We'll  
14 see you next month or hope to hear from  
15 you. Please keep Siobhan in contact with  
16 whatever your plans are so we can at  
17 least establish whether or not -- if  
18 you're not going to be here, just let us  
19 know.

20 MR. PETERS: No problem. Thank you  
21 very much.

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23 (Time noted: 8:15 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 6th day of April 2026.

*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

JESSICA SPANAKOS  
(Living Trust)

115 Sunset Drive, Newburgh  
Section 80; Block 1; Lot 7  
R-3 Zone

----- X

Date: March 26, 2026  
Time: 8:15 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: JESSICA SPANAKOS

----- X

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

2 CHAIRMAN SCALZO: Our next applicant  
3 is Jessica Spanakos -- I said that  
4 correctly, I hope -- at 115 Sunset Drive,  
5 seeking an area variance of the front  
6 yard to keep, A, a 12 by 24 and, B,  
7 9 by 6.5 accessory structures in the  
8 front yard.

9 Siobhan, do we have mailings on  
10 this? I've got to bet this is the winner.

11 MS. JABLESNIK: No, it's actually  
12 not. This applicant sent 59 letters.

13 CHAIRMAN SCALZO: 59 letters.

14 MS. JABLESNIK: Not the winner but  
15 it's up there. It's a big one.

16 MS. SPANAKOS: A lot of stamps.

17 CHAIRMAN SCALZO: People don't  
18 realize how cool the Town of Newburgh is  
19 when it comes to mailings. With other  
20 municipalities you have to send them  
21 return receipt requested. Can you  
22 imagine having to send out 59 of those?

23 MR. DONOVAN: They're like \$8.

24 CHAIRMAN SCALZO: What the cost  
25 would be. Holy smokes.

2 MS. JABLESNIK: That's why they  
3 get to do the work and bring them to  
4 me and I just mail them out.

5 CHAIRMAN SCALZO: That's wonderful.

6 I just said a very short sentence  
7 on what it is that you're looking to do.  
8 We've been by the site. I happened to  
9 see it on Zillow. I like your decorating  
10 style. It's very nice. It's lovely.  
11 You did a nice job there.

12 Riding around the neighborhood, I  
13 saw no other sheds in front yards. I  
14 also saw no other carports in front  
15 yards.

16 I looked at Google Maps, I don't  
17 know that it was a carport, but you had a  
18 structure in the backyard that's no  
19 longer there.

20 MS. SPANAKOS: Oh, the previous  
21 owner had a pool.

22 CHAIRMAN SCALZO: Maybe. Wasn't  
23 there some type of structure standing up  
24 in the back?

25 MS. SPANAKOS: We have a playhouse

2 in the backyard that is roofed. It  
3 looks almost like a shed.

4 CHAIRMAN SCALZO: I didn't walk  
5 around the back. I was looking at Google  
6 Maps.

7 What you have here, like I said,  
8 you keep it up very nicely. As a Board  
9 we struggle with applications like this  
10 because, as I said, I drove around the  
11 entire neighborhood and I didn't see any  
12 other accessory structures in the front  
13 of the house.

14 We set precedents when we do things.  
15 I just want to say that.

16 Now I'm going to go over to my  
17 right. Mr. Eberhart, comments or questions  
18 on this?

19 MR. EBERHART: I have the same issue  
20 of setting a precedent.

21 MS. SPANAKOS: There is no other  
22 place to put a carport, though, with the  
23 way that our driveway is designed. It is  
24 due to the restraints, like the property  
25 layout. I don't see where else you would

2 be able to put a carport.

3 CHAIRMAN SCALZO: Sure.

4 MS. SPANAKOS: I'm just mentioning  
5 that.

6 CHAIRMAN SCALZO: I understand  
7 that. I'll tell you that I have a house  
8 with a one-car garage and guess who gets  
9 to park in it. My wife. My son and I  
10 are relegated to sweep the snow off our  
11 cars.

12 MS. SPANAKOS: My husband has a lot  
13 of toys in the garage.

14 CHAIRMAN SCALZO: I understand your  
15 point. You've got to have fun here.

16 Mr. Eberhart, anything else?

17 MR. EBERHART: Other than, you  
18 know, I have a problem with that.

19 CHAIRMAN SCALZO: Mr. Hermance.

20 MR. HERMANCE: Even the garage  
21 being in the front --

22 CHAIRMAN SCALZO: It's connected to  
23 the house. That's not under consideration  
24 here. I'm assuming -- I didn't look at  
25 the bulk tables.

2 MS. SPANAKOS: We did pick the most  
3 aesthetically pleasing one as well. It  
4 is the cedar look, and the front of our  
5 house has the cedar look as well. We  
6 wanted to make it as aesthetically  
7 pleasing.

8 CHAIRMAN SCALZO: Mission  
9 accomplished. I rolled up and I said  
10 that looks fantastic. Even the shed has  
11 a little stone on the bottom. You did a  
12 beautiful job. That's not where we're  
13 going.

14 I'm sorry, Mr. Hermance, I cut you  
15 off because I like to talk.

16 MR. HERMANCE: That's the same as I  
17 had.

18 MS. REIN: How long have these  
19 structures been there?

20 MS. SPANAKOS: The carport is new.  
21 So the carport, maybe three months.

22 MS. REIN: And the shed?

23 MS. SPANAKOS: The shed is a little  
24 bit longer. My best guess would be five  
25 years. We use the shed to store

2 bicycles, our children's bicycles.

3 MS. REIN: I'm just trying to  
4 understand. Why would you come before us  
5 now to ask for this?

6 MS. SPANAKOS: So we - actually, I  
7 misunderstood with the carport. We never  
8 like -- we put in an application to get  
9 it and then my husband ordered it and  
10 then we had someone, you know, come. I  
11 thought we had the approval to build it.  
12 It said not a building permit and I  
13 misunderstood that.

14 MS. REIN: What about the shed?

15 MS. SPANAKOS: The shed. So that  
16 was delivered fully constructed and just  
17 delivered there because we use it for the  
18 children's bicycles.

19 MS. REIN: You didn't think you  
20 needed anything for that from the Town?

21 MS. SPANAKOS: I didn't know with a  
22 shed. I thought because it came already  
23 in one piece and we're just putting it  
24 there, it's technically a moveable  
25 structure.

2                   MS. REIN: I get that. Thank you.

3                   MS. SPANAKOS: With the carport I  
4           put in and misunderstood.

5                   MS. REIN: Thank you.

6                   MS. SPANAKOS: You're welcome.

7                   CHAIRMAN SCALZO: Mr. Masten.

8                   MR. MASTEN: I have nothing.

9                   CHAIRMAN SCALZO: Okay. At this  
10           point I'm going to open it up to any  
11           members of the public that wish to  
12           comment on this application.

13                   Please state your name for the  
14           record.

15                   MR. LAPIERRE: I'm Jessica's  
16           neighbor, Barry Lapierre. I reside at 21  
17           Catalpa Road. I've been there for 35  
18           years. I drive by Jessica and Chris's  
19           house every day many, many times.

20                   I agree with your assumption. They  
21           have done a good job with the house. I  
22           remember what it was. In my profession I  
23           had a lot of run ins with that house. I'm  
24           glad to see what they did with it.  
25           They've done landscaping. They've done

2            stuff to the house, gables, the painting,  
3            the new driveway. They maintain a wall  
4            that's actually in a utility right-of-way  
5            I'm quite sure. They've also done  
6            plantings on that so it maintains it.

7            That being said, the structure  
8            itself is indeed close to the front road.  
9            The end of it is blocked with some  
10           arborvitaes. When you come up the road  
11           you don't really notice it because you're  
12           looking through it. The same thing  
13           coming down Sunset Road, you're looking  
14           through it. It has a very low profile.

15           What my concern is is what would it  
16           become if Jessica and Chris move on to  
17           greener pastures. And I hope you do. I  
18           really do. I can see that if the  
19           approvals were there, they would need  
20           restrictions, because I can see somebody  
21           going to Home Depot, throwing a bunch of  
22           studs in the back of their truck and  
23           enclosing this thing with the cheapest  
24           vinyl siding instead of having a  
25           completely open structure, because your

2 letter doesn't identify what it is we're  
3 looking at. An accessory structure can  
4 be anything from a barn to a doghouse.

5 MS. REIN: You're talking about the  
6 carport?

7 MR. LAPIERRE: I am. The shed is  
8 there also, but it's not as prominent.  
9 It sits back.

10 I would say you're faced with a  
11 tough decision. It is very close to the  
12 road and you don't want to set a  
13 precedent.

14 My concern is what will it become  
15 when they go and somebody does this?  
16 What recourse do the neighbors have?  
17 We're going to be looking at a 24 by 12  
18 foot basically cargo box in the front of  
19 their yard.

20 There's also a danger there. This  
21 is a kit. Kits are designed by the  
22 manufacturer.

23 There's nothing in the code, is  
24 there, Joe?

25 There's nothing in the code about

2            how these things are supposed to be done.  
3            It's completely by the manufacturer's  
4            specifications.

5            Now, when you enclose that, there  
6            are only six posts and that's the  
7            entire anchoring of the structure.  
8            You get 30, 40, 50 mile-an-hour wind  
9            all the time. What will likely happen  
10           with this, if it was allowed to get  
11           that way, if there were no restrictions  
12           or if you indeed choose to let them  
13           keep the structure, where is it going  
14           to go? It's going to blow over. It's  
15           going to be in their yard, the  
16           neighbors' yards or on top of a car  
17           on the road. Or worse, maybe on a  
18           kid or somebody walking. There are a  
19           lot of dog walkers.

20           So that being said, those are my  
21           main concerns, that it will become  
22           something different, something  
23           obtrusive and something that might  
24           end up on my desk to try and make go  
25           away.

2 Thank you.

3 CHAIRMAN SCALZO: Thank you.

4 Just hearing that, and again  
5 talking about setting a precedent, what  
6 the gentleman just said, or what he  
7 didn't say is within three years we could  
8 have sixteen applications for carports in  
9 the front of houses, and sheds. Again,  
10 I'm struggling with this one. Part of  
11 the struggle is because you did such a  
12 nice job on the home and the shed and  
13 everything else.

14 MS. SPANAKOS: I understand what  
15 Barry is saying with the carport. Would  
16 it be possible to just keep the shed  
17 then? With the carport, it is a kit. We  
18 didn't even permanently put it down yet.  
19 We were waiting for the approval before  
20 drilling into the driveway.

21 MS. REIN: If we were to approve  
22 that, could we make a condition saying  
23 that when and if they sell the property,  
24 the carport goes with them?

25 MR. DONOVAN: Why?

2 MS. REIN: So that there's no  
3 chance of anybody putting any siding on  
4 it.

5 CHAIRMAN SCALZO: We would be  
6 accepting of it now. If anybody comes in  
7 with a story that says oh, by the way,  
8 I'm going to sell in a year, can I just  
9 have a carport for a year.

10 MS. SPANAKOS: I appreciate you  
11 thinking of that. It would actually be  
12 more work for us. It's not permanent  
13 right now. To make it permanent we would  
14 have to drill into the driveway to secure  
15 it with rebar, I'm assuming. So then we  
16 would have to repair the driveway.

17 MS. REIN: It would be more trouble.  
18 Okay.

19 CHAIRMAN SCALZO: Well, not that it  
20 matters. Joe, I would assume it would  
21 actually need to be on real footings.

22 MR. MATTINA: It would have to be  
23 installed per the manufacturer, whether  
24 it's the drill-down footings or regular  
25 footings. The manufacturer would tell us

2 how it has to be secured.

3 CHAIRMAN SCALZO: You said the shed  
4 arrived, got plopped down just like it  
5 was?

6 MS. SPANAKOS: Yeah. Then my  
7 husband added the stone to it and we  
8 painted it to match the house.

9 CHAIRMAN SCALZO: Again, it's  
10 beautiful. Again, I appreciate your  
11 decorating style.

12 I wonder how hard it would be to  
13 push it back to the front face of the  
14 garage, that way it will all go away.

15 MS. SPANAKOS: Like behind the  
16 garage?

17 CHAIRMAN SCALZO: The reason why  
18 you're here is it sits out past the  
19 garage. If you were to have it match the  
20 front face of the garage, then you  
21 wouldn't need a variance.

22 MR. HERMANCE: You wouldn't need a  
23 variance.

24 CHAIRMAN SCALZO: You say it  
25 arrived, they dropped it off. If you

2 were to pull it back even with the front  
3 face of the garage, you wouldn't need a  
4 variance.

5 MS. SPANAKOS: Okay. When we redid  
6 the driveway, they redid the driveway  
7 around it. There would be like a weird  
8 square there.

9 CHAIRMAN SCALZO: Understood. I  
10 haven't seen any sheds out in front of  
11 the garage in that whole neighborhood. I  
12 know I mentioned that. All right.

13 MR. DONOVAN: If you deny it, you  
14 deny the variances and they want to keep  
15 the shed, they have to do something with  
16 it.

17 CHAIRMAN SCALZO: That's correct.

18 MR. DONOVAN: As opposed to  
19 granting it based upon them doing  
20 something.

21 MS. REIN: What's the condition?

22 CHAIRMAN SCALZO: There wouldn't be  
23 a condition. What counsel -- it helps me  
24 if I repeat what I think you said. If we  
25 deny the application and then they move

2 the shed back to either match the front  
3 face of the garage, meaning from the  
4 front property line, then they wouldn't  
5 need a variance to have the shed.

6 MS. REIN: Okay.

7 CHAIRMAN SCALZO: If we were to  
8 grant a variance with conditions that --  
9 well, I don't know what conditions we  
10 could throw on it.

11 MS. REIN: Once it goes back, if it  
12 goes back, it's irrelevant?

13 CHAIRMAN SCALZO: Right.

14 MS. REIN: Okay. I get it.

15 MR. EBERHART: This is like a stomp  
16 your foot moment. Move it in line.

17 MS. SPANAKOS: When you're saying  
18 the front face, are you talking about the  
19 garage door, like if that had a line and  
20 it has to be behind it?

21 MR. EBERHART: Exactly.

22 MR. HERMANCE: Then you wouldn't  
23 need the variance.

24 MS. SPANAKOS: It just has to be  
25 behind it?

2 MR. HERMANCE: It could be a few  
3 inches behind it. That's behind. It  
4 doesn't have to be five, ten feet behind  
5 it. It just says it can't be in the  
6 front yard.

7 CHAIRMAN SCALZO: I'll tell you  
8 what. Come here for a second. So here  
9 is your garage. That blue line I just  
10 drew is your front yard setback. If you  
11 were to take the shed and say put it  
12 here, flip it around so the doors open  
13 that way so it's behind the face line of  
14 the garage, you wouldn't need to be here.

15 MS. SPANAKOS: Okay. Does it have  
16 to face forward?

17 CHAIRMAN SCALZO: It can face any  
18 way you want as long as it's pushed back  
19 beyond that garage face.

20 MS. SPANAKOS: All right. I  
21 understand what you're saying now. Thank  
22 you.

23 CHAIRMAN SCALZO: I know you  
24 couldn't capture that, Michelle.

25 Is there anybody else from the

2 public? We did that. I don't know that  
3 we closed the public hearing yet. Have  
4 we?

5 MR. EBERHART: No.

6 MR. HERMANCE: No.

7 CHAIRMAN SCALZO: Is there anyone  
8 else from the public that wishes to speak  
9 about this application?

10 (No response.)

11 CHAIRMAN SCALZO: No. Okay. Then  
12 I'll look to the Board for a motion to  
13 close the public hearing.

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

16 MR. HERMANCE: I'll second it.

17 CHAIRMAN SCALZO: We have a motion  
18 to close from Mr. Eberhart. We have a  
19 second from Mr. Hermance. All in favor.

20 MR. EBERHART: Aye.

21 MR. HERMANCE: Aye.

22 CHAIRMAN SCALZO: Aye.

23 MR. MASTEN: Aye.

24 MS. REIN: Aye.

25 CHAIRMAN SCALZO: Those opposed?

2 (No response.)

3 CHAIRMAN SCALZO: Very good.

4 So folks, we're going to go through  
5 our factors here.

6 This is a Type 2 action under  
7 SEQRA. We're going to go through the  
8 area variance five factors, the first one  
9 being whether or not the benefit can be  
10 achieved by other means feasible to the  
11 applicant. In this instance, yes. The  
12 carport can come down. The shed can be  
13 moved.

14 The second, if there's an undesirable  
15 change in the neighborhood character or a  
16 detriment to nearby properties. Undesirable  
17 change in the neighborhood character, you  
18 know, just from driving around, there are  
19 no other carports or sheds in the front.  
20 I don't know if you call that undesirable  
21 because the applicant did a very nice job  
22 with what they did. However, long-term  
23 looking, it could be considered that.

24 The third, whether the request is  
25 substantial.

2                   MR. EBERHART:   Yes.

3                   CHAIRMAN SCALZO:   It is.

4                   The fourth, whether the request  
5                   will have adverse physical or  
6                   environmental effects.  Not necessarily  
7                   now.  It has potential.

8                   Fifth, whether the alleged  
9                   difficulty is self-created which is  
10                  relevant but not determinative.  Yes,  
11                  it is self-created.

12                  So having gone through the  
13                  balancing tests of the area variance,  
14                  what's the pleasure of the Board?  
15                  Does the Board have a motion of some  
16                  sort?

17                  MR. EBERHART:   I'll make a motion  
18                  for disapproval.

19                  CHAIRMAN SCALZO:   We have a motion  
20                  for disapproval from Mr. Eberhart.

21                  MR. HERMANCE:   I'll second it.

22                  CHAIRMAN SCALZO:   We have a second  
23                  from Mr. Hermance.

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

2 MR. DONOVAN: A yes vote is to deny  
3 the application.

4 CHAIRMAN SCALZO: A yes vote is to  
5 deny the application.

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: Yes.

16 Unfortunately your variance has not  
17 been granted. I think we may have given  
18 you an alternative to at least keep your  
19 shed.

20 MS. SPANAKOS: Do I have to put in  
21 for any paperwork on the shed being moved  
22 back?

23 CHAIRMAN SCALZO: For that talk to  
24 Mr. Mattina.

25 MR. MATTINA: I think we have the

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application already. That's how we got here.

CHAIRMAN SCALZO: Reach out to the Building Department and they'll guide you through what you need to do.

MS. SPANAKOS: Thank you.

(Time noted: 8:33 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 6th day of April 2026.

*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

DARBY & SIMONE JONES  
117 North Dix Avenue, Newburgh  
Section 73; Block 6; Lot 21.2  
R-3 Zone

----- X

Date: March 26, 2026  
Time: 8:33 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: DARBY JONES  
SIMONE JONES

----- X

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

2 CHAIRMAN SCALZO: Our next and  
3 final applicant for the evening is Darby  
4 and Simone Jones, 117 North Dix Avenue,  
5 seeking an area variance of increasing  
6 the degree of nonconformity of the front  
7 yard to build a 7.58 by 13.58 rear  
8 addition.

9 For those of you who want to know  
10 what .58 is, it's like 7 inches.

11 Anyway, mailings on that, Siobhan?

12 MS. JABLESNIK: Are you ready? Are  
13 you ready?

14 CHAIRMAN SCALZO: I didn't get one.  
15 I live in that neighborhood.

16 MS. JABLESNIK: 90.

17 MR. JONES: We got the record.

18 CHAIRMAN SCALZO: You are the  
19 winner.

20 Who do we have with us?

21 MR. JONES: My name is Darby Jones.  
22 I'm the homeowner. My wife and I own the  
23 home.

24 The reason we're here today is  
25 because we're seeking to make the best

2 use of this. What was previously -- when  
3 we purchased the home it was an enclosed  
4 porch. We're just trying to make the  
5 best use of a small home, maximize the  
6 usable space by putting a half bath, a  
7 mud room, landing area and entryway.

8 CHAIRMAN SCALZO: Perfect. By the  
9 site plan that we have in front of us, it  
10 appears that no matter what you wanted to  
11 do, you would have ended up in front of  
12 us anyway because the house is so close  
13 to the property line.

14 The addition that you're putting  
15 on, it appears that you're not even  
16 maintaining that same house line. It's  
17 actually offset further back. That's the  
18 plans that we have in front of us here.

19 MR. JONES: Correct.

20 CHAIRMAN SCALZO: I love the color  
21 of the house. It's like a dark mustard.  
22 Very nice. Great little neighborhood.  
23 I've walked there many times.

24 I've got no comments.

25 Ms. Rein.

2 MS. REIN: I'm good.

3 CHAIRMAN SCALZO: Mr. Masten.

4 MR. MASTEN: I'm good.

5 CHAIRMAN SCALZO: Mr. Hermance.

6 MR. HERMANCE: I have no questions.

7 MR. EBERHART: No questions.

8 CHAIRMAN SCALZO: I'll open this  
9 up. Do any members of the public wish to  
10 speak about this application?

11 MR. ESPINOZA: We're good with it.

12 CHAIRMAN SCALZO: You just need to  
13 say who you are.

14 MR. ESPINOZA: I'm Xavier. My wife  
15 and I live at 131 North Dix. We're their  
16 neighbors.

17 CHAIRMAN SCALZO: Do you have a  
18 last name or are you recognized by how  
19 Cher is?

20 MR. ESPINOZA: Espinoza.

21 CHAIRMAN SCALZO: Very good. Thank  
22 you. Now I'm good. Thank you for being  
23 here. It's wonderful that neighbors come  
24 out and support or even comment because  
25 it takes time away from what you normally

2 would do. I think it's important that  
3 people come out and express their  
4 opinions.

5 MR. DONOVAN: And sit here for an  
6 hour and a half.

7 CHAIRMAN SCALZO: And sit here and  
8 listen to this guy talk.

9 Does anyone else from the public  
10 wish to speak about this application?

11 (No response.)

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

15 MR. HERMANCE: I'll make a motion  
16 to close the public hearing.

17 MR. EBERHART: I'll second it.

18 CHAIRMAN SCALZO: We have a motion  
19 from Mr. Hermance. We have a second from  
20 Mr. Eberhart. 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: Those opposed?

3 (No response.)

4 CHAIRMAN SCALZO: We're going to go  
5 through the five factors. You've heard  
6 them all before. The first one being  
7 whether or not the benefit can be  
8 achieved by other means feasible to the  
9 applicant.

10 Keep in mind, folks, we're looking  
11 at the portion of the house that's  
12 existing, so really no.

13 Second, if there's an undesirable  
14 change in the neighborhood character or a  
15 detriment to nearby properties. No.

16 Third, whether the request is  
17 substantial. Again no. Not really. I  
18 mean, just because it's so close. I'm  
19 trying to latch on to what counsel taught  
20 me here.

21 Fourth, whether the request will  
22 have adverse physical or environmental  
23 effects. No.

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

2 relevant but not determinative.

3 Now, Counsel, I would be willing to  
4 bet that house was built before zoning.

5 MR. JONES: 1912.

6 CHAIRMAN SCALZO: However, when you  
7 buy it --

8 MR. DONOVAN: You're imputed  
9 with -- yes.

10 CHAIRMAN SCALZO: However, he's not  
11 extending that side. Anything he would  
12 have done, he would have had to be here.

13 MR. DONOVAN: To the extent the  
14 hardship is self-created, it's not a --

15 CHAIRMAN SCALZO: It's not an  
16 impediment to the application.

17 Therefore, having gone through the  
18 balancing tests of the area variance,  
19 what is the pleasure of the Board?

20 MS. REIN: I'll make a motion to  
21 approve.

22 MR. MASTEN: I'll second it.

23 CHAIRMAN SCALZO: We have a motion  
24 for approval from Ms. Rein. We have a  
25 second from Mr. Masten.

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

4 MS. JABLESNIK: Mr. Eberhart.

5 MR. EBERHART: Yes.

6 MS. JABLESNIK: Mr. Hermance.

7 MR. HERMANCENCE: Yes.

8 MS. JABLESNIK: Mr. Masten.

9 MR. MASTEN: Yes.

10 MS. JABLESNIK: Ms. Rein.

11 MS. REIN: Yes.

12 MS. JABLESNIK: Mr. Scalzo.

13 CHAIRMAN SCALZO: Yes.

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

16 MR. JONES: Thank you very much. I  
17 appreciate it.

18 CHAIRMAN SCALZO: The last order of  
19 business is the approval of last month's  
20 meeting minutes. Do I have a motion from  
21 the Board for the approval of the meeting  
22 minutes for the month of February?

23 MR. EBERHART: I'll make a motion  
24 for approval of last month's minutes.

25 MR. HERMANCENCE: I'll second it.

2 CHAIRMAN SCALZO: We have a motion  
3 from Mr. Eberhart. We have a second from  
4 Mr. Hermance. All in favor.

5 MR. EBERHART: Aye.

6 MR. HERMANCE: Aye.

7 CHAIRMAN SCALZO: Aye.

8 MR. MASTEN: Aye.

9 MS. REIN: Aye.

10 CHAIRMAN SCALZO: Those opposed?

11 (No response.)

12 CHAIRMAN SCALZO: How about a  
13 motion to adjourn?

14 MS. REIN: I'll make a motion to  
15 adjourn.

16 CHAIRMAN SCALZO: I'll second that.  
17 All in favor.

18 MR. EBERHART: Aye.

19 MR. HERMANCE: Aye.

20 CHAIRMAN SCALZO: Aye.

21 MR. MASTEN: Aye.

22 MS. REIN: Aye.

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24 (Time noted: 8:40 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 6th day of April 2026.

*Michelle Conero*  
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MICHELLE CONERO