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

----- X

In the Matter of

275 ROUTE 17K, LLC

275 Route 17K, Newburgh
Section 90; Block 1; Lot 2
R-1 Zone

----- X

Date: June 24, 2021
Time: 7:03 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN (Present at 7:07 p.m.)
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE:

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN SCALZO: It is after 7. Mr. Masten is not here. I think we're going to carry on.

I'd like to call the meeting of the ZBA to order. The order of business this evening are the public hearings 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. After all the -- actually, we're going to go right in order. We're not going to take the break that we used to take when we had the meetings the previous way. They seem to be quite effective. The Board will then consider the applications in the order heard and 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

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put it on silent. When speaking, speak directly into the microphone. It is being recorded but we also have our stenographer here this evening.

Roll call, please.

MS. JABLESNIK: Darrell Bell.

MR. BELL: Here.

MS. JABLESNIK: Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: Richard Levin.

MR. LEVIN: Here.

MS. JABLESNIK: Anthony Marino.

MR. MARINO: Here.

MS. JABLESNIK: John Masten is not here yet.

John McKelvey.

MR. MCKELVEY: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Here.

MS. JABLESNIK: Also present is our Attorney, Dave Donovan, and our Stenographer, Michelle Conero.

CHAIRMAN SCALZO: Excellent. If you could all please rise for the Pledge.

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Mr. Bell, would you lead us,
please.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: All right. Our first applicant this evening is 275 Route 17K, LLC located at 275 Route 17K, seeking an interpretation of the ordinance and use variance to keep the prior built offices in a building located in an R-1 Zone.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 31 mailings. They were sent to the County but it's been over 30 days.

CHAIRMAN SCALZO: Very good. So we can act on this application this evening. Very good.

Do we have anyone here representing 275 Route 17K, LLC?

MR. BLOOMER: Yes, Your Honor. The applicant and his attorney.

CHAIRMAN SCALZO: He just called me Your Honor. How about that.

MR. BLOOMER: I'm sorry.

CHAIRMAN SCALZO: My head is big.

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MR. BLOOMER: I'm sorry, Mr. Donovan.

CHAIRMAN SCALZO: Please step forward.

We have Mr. Masten. You can mosey on up.

We're in number 1, Mr. Masten, so you don't have to dig too deep. Very good. We are here. The applicant in front of us, Mr. Masten, is 275 Route 17K. Representation just stood up, paid me a very lovely compliment, and we're on our way.

Please introduce yourselves as it is being recorded.

MR. SAUNDERS: Derrick Saunders. I'm the owner of 275 Route 17K.

MR. BLOOMER: Roland Bloomer, attorney at Johnson & Bloomer, LLP, representing the applicant.

CHAIRMAN SCALZO: Okay. So if it matters, here's the thickest application we have this evening. I'm going to kind of -- actually, since it's sizable I'm

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going to let you go ahead and let us know why you're here.

MR. BLOOMER: So if it pleases the Board, the application is put before the Board for a continued use variance for an office building. I believe the building was constructed back in '85. It was constructed at that time as a model home as there were other residences that were being built. At that time he was granted a use variance. He was authorized to use it as an office space. The property was sold again and before this Board in 2008 where they asked essentially the same thing we're asking for, continued use of occupancy as an office building in a residential district. At that time there was no change to the current use. It was a continued use as an office building.

My client now has purchased the building. We're before you because the Building Department asked us to get a decision from you for the same thing.

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Essentially this whole property was sold and it had to go back before you guys for the continued use.

My applicant, who will speak further on this, is intending to use it as his office building, the building almost in whole. Previously there were numerous tenants that are no longer there. He will be using it as an office building for his business that's been around for -- how long?

MR. SAUNDERS: Fourteen years.

MR. BLOOMER: Fourteen years in Newburgh. That's pretty much it.

CHAIRMAN SCALZO: Very good. We're obligated by position to go visit every site. We all have been past the site. I was actually there today. A lot of action. Not a lot of parking spaces left when I drove by, but I did not pull in your parking lot.

So okay. I will let you continue.

MR. SAUNDERS: So I have a title

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insurance company. We use the office as our office space. It's mostly clerical work.

Yes, the parking, because of the work that was going on, but we're actually an office of eight, my wife included. A lot of times we're out of the office traveling to different closings. The building is very important to us because of the easy access to 84.

We have one tenant -- we actually have two. We have one tenant who is an attorney, it's her law firm, and she has one assistant who is working remotely. We have another tenant. These are pre-existing tenants from when I bought it. He's actually moving out within the next thirty days.

CHAIRMAN SCALZO: Very good.
Thank you.

Okay. At this point I'm going to look to the Members of the Board for discussion on this. I'll start to my left there. Mr. Marino?

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MR. MARINO: Have you ever had any people living in the building as their home or was it strictly commercial?

MR. SAUNDERS: From my knowledge it's always been commercial from when Schoonmaker had it to when Mr. Segali purchased it. It's always been office space.

MR. McKELVEY: I can vouch for that because I live in the development. I go by it every day.

CHAIRMAN SCALZO: Okay. And only because -- well, Mr. Marino just asked has it ever been residential. On the proxy it says that you reside at 275 Route 17K, or is that just how it appears on the proxy?

MR. SAUNDERS: That's a clerical error. I'm a Marlborough resident.

CHAIRMAN SCALZO: I understand. I do read this stuff.

MR. BLOOMER: That was the proxy for me. So we put where the office space was residing at because it's the LLC. If that's an error, that's my fault.

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CHAIRMAN SCALZO: I'm not all that worried about it. Since Mr. Marino asked the question and I just looked at it today, I was there.

Mr. Masten?

MR. MASTEN: Well I remember years ago when the development first came up here. It was a model home.

MR. McKELVEY: Schoonmaker.

MR. MASTEN: Yeah. But otherwise I've always seen it -- after that it became an office building.

CHAIRMAN SCALZO: Okay. Mr. Levin?

MR. LEVIN: Nothing.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. McKELVEY: I've never seen any problem with the parking.

CHAIRMAN SCALZO: Okay.

MR. McKELVEY: Now they're doing some work there, it's loaded.

CHAIRMAN SCALZO: Okay. Actually, that's what brought you here.

MR. BLOOMER: There you go.

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CHAIRMAN SCALZO: I saw that.
Very good.

Mr. Hermance, do you have any
comments on this?

MR. HERMANCE: So the work that
was going on there, I notice you have a
stop work order placed on that also. What
was that from?

MR. BLOOMER: So there's two
building permits that were applied for.
What is happening there right now is
cosmetic work that doesn't need a building
permit. We were doing as much as possible
and hoping that this Board would approve
the continued use as commercial so we can
go back to the Building Department to get
them to issue the building permit. They
sent us here because since it's zoned
residential, they weren't sure which code
to apply. We needed to come here to
continue to use it as commercial to be
able to apply.

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

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CHAIRMAN SCALZO: So the attorney just said that the title insurance company that does this for a living didn't do it before the closing and now they're here asking this question. I have to -- I had to say that.

MR. SAUNDERS: Sure.

CHAIRMAN SCALZO: Wow.

Mr. Bell, do you have anything?

MR. BELL: No. I've heard enough. I'm good.

CHAIRMAN SCALZO: Okay. Wow. An observation for you. The B District is 50 feet away from you. Are you aware of that? You're in a residential, but the B District, which what you're doing would fit right in, is right across the street. Did you even consider reaching out to the Town Board to get that zoning line moved?

MR. BLOOMER: No.

MR. SAUNDERS: No.

CHAIRMAN SCALZO: Because this is unusual. I did read through the determination from 2008, and I also read

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through the information you supplied in your application package. One of the conditions for the original use variance that was granted was that there was a line of trees that was supposed to be between your office and the first residential home in the subdivision, which there are but about that tall (indicating). I did look at some Google historical documents and it used to be quite lush between the two. That is a requirement in the original use variance. I'm not aware if you read that or not.

And then the other thing that I picked up in the decision from 2008, it is the opinion of the Board that the terms "model home" and "sales office" may be used interchangeably in connection with the application, which the model home was for homes that were being built, I'm assuming in Colden Park.

MR. McKELVEY: No. Colden Park was built long --

CHAIRMAN SCALZO: Long before

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that. Well Schoonmaker is very large.
You know, they built half of Newburgh.

So anyway, that was their model home. They showed what was available. You know, that ended up being their office.

What your business is now doesn't quite fit that, but that's just my observation at this point.

Counselor, am I on the right track here?

MR. DONOVAN: Well, here's my observation. So in 1985 originally a use variance was given allowing this to be used as a model home sales office. There was a lot of discussion in 2008 about the sales aspect of the concrete business, for lack of a better. I don't remember exactly.

The general rule with a use variance is when you get a use variance you now become a permitted use, different than a pre-existing nonconforming use which is established at such time as the

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use was legal and if it lapses it becomes illegal, you may lose that protection. We've been down that road on a couple applications.

Relative to this application. It's kind of an interesting revision to the 1985 decision that says any change to such use shall be subject to further review and approval of this Board. Perhaps that's what brings you here tonight. It does seem to me that this was approved as an office. In the 2008 decision -- this is an extraordinarily well written decision, by the way. I remember it well. But that decision did say that the office use was fine.

The issue that the Board was concerned with was the sales component, right, whether that was okay. But the office use -- as I would understand the law and interpret it to you, the use of this building as an office is a permitted use because it got the use variance in 1985. I'm not clear why the Board made a

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condition that every change of use needs to come back. This is still an office use.

Right? You're not doing anything other than office?

MR. SAUNDERS: No, sir.

MR. DONOVAN: So my opinion to the Board is it became an office use in 1985 and it's still a permitted use.

CHAIRMAN SCALZO: Okay. I understand your point.

Still back to you need to plant bigger trees if you're going to follow the provisions of the 1985 action.

Also, pardon me for saying it this way, it doesn't seem like the way it should have been approached. Because the B District is right across the street, it would be so clean and neat and you'd never have to be here again.

MR. DONOVAN: I don't know that they need to be here for an office use. They need to be here for a different use.

MR. BLOOMER: That would be my

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argument as well. This Board, not specifically you guys, set the precedent twice.

CHAIRMAN SCALZO: I think he was the only one here.

MR. BLOOMER: Set the precedent that an office building was allowed. We're just asking it be extended. I don't know why they put the provision on there either in '85.

MR. DONOVAN: I think you could read that to say -- the Board said in 2008 personal service would be a problem, retail would be a problem, but an office use is not a problem because that's an allowed use. They granted the use variance in 1985.

MR. BLOOMER: They also had, as the building permit says, office building.

CHAIRMAN SCALZO: Okay. Any other comments from the Board?

MR. McKELVEY: There's never been any complaints from the neighbors.

CHAIRMAN SCALZO: Okay. At this

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time I'd like to open it up to any members of the public that wish to speak about this application.

(No response.)

CHAIRMAN SCALZO: It's nice to be able to look and see the people.

MS. JABLESNIK: We're not on Zoom.

CHAIRMAN SCALZO: No phone number. Could this phone number be, raise your hand.

MS. JABLESNIK: Can anybody hear me.

CHAIRMAN SCALZO: I don't mean to make fun of the pandemic but it's just nice to be back, you know, with people in front of us.

I have no additional comments.

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

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

MR. McKELVEY: Second.

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CHAIRMAN SCALZO: We have a motion from Mr. Masten. We have a second from Mr. McKelvey. Roll call on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed.

I believe this is a Type 2 action under SEQRA.

MR. DONOVAN: That is correct.

CHAIRMAN SCALZO: Very good.

Since this is an interpretation --

MR. DONOVAN: You don't need to

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go through the five factors. It would just be a motion to approve the application as requested to allow the office use to continue.

MR. McKELVEY: I'll make that motion.

CHAIRMAN SCALZO: Thank you, Mr. McKelvey.

MR. BELL: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey. We have a second from Mr. Bell. Any discussion before we actually roll through all that?

(No response.)

CHAIRMAN SCALZO: My only comment is I would like you to try to pursue getting that B Zone. Obviously you don't have to depending on what happens in about 45 seconds. It would make things so much neater.

If you could roll on that, Siobhan.

MR. HERMANCE: I do have a question. Would they still have to restore trees as stated in the original --

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CHAIRMAN SCALZO: The original use variance did require them to have a --

MR. DONOVAN: So relative that issue, that's up to the Code Compliance Department. You're just being asked to interpret whether the office use can continue.

CHAIRMAN SCALZO: Very good. Now you can roll on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. Your

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interpretation, you interpreted it
correctly.

MR. BLOOMER: Thank you very
much. Have a good night.

(Time noted: 7:22 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 9th day of July 2021.

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

DOUGLAS & MARY SANFORD

402 Frozen Ridge Road, Newburgh
Section 6; Block 1; Lot 50.3
AR Zone

----- X

Date: June 24, 2021
Time: 7:24 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: DOUGLAS SANFORD

----- X

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CHAIRMAN SCALZO: Our next applicant is Douglas and Mary Sanford at 402 Frozen Ridge Road in Newburgh, seeking area variances of increasing the degree of nonconformity of one side yard and the combined side yards to keep a 12 x 20 rear deck.

Siobhan, mailings on this?

MS. JABLESNIK: This applicant sent out 17 letters.

CHAIRMAN SCALZO: 17. Very good. Thank you.

Do we have anyone here representing the Sanfords?

MR. SANFORD: Douglas Sanford.

CHAIRMAN SCALZO: Very good. You just heard us. They were paving your street today.

MR. SANFORD: Yeah. The Marlborough side. Here I'm going to the town police and complaining about the speed on the road. It's crazy up there. Really crazy.

CHAIRMAN SCALZO: I agree. I

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actually own property on Winston.

MR. SANFORD: It's 30 and it's
crazy up there.

CHAIRMAN SCALZO: You put stripes
on the road and people tend to speed.

So anyway, sir. You're here
today to talk about the area variance for
increasing the degree of nonconformity.
There is currently a deck on there. It's
my understanding you're just looking to
replace the deck.

MR. SANFORD: No. There was a
small deck on the original deed, 7 x 9.
29 years ago I had a friend that I did
work for and he owed me some money,
whatever. He was a builder. He was
moving to Florida and he said I'll put
your deck up. At that time I had a pool
and he put a deck around it. Now I want
to make the deck new.

There's a door going to the pool.
I'll get rid of that and just put the deck
and get a CO on it so I can get other
building permits to put central air in and

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everything else. I'm just getting my house up legal.

CHAIRMAN SCALZO: That's a good thing. I saw it's almost like a screen in front of the opening that used to go out straight, and there was another opening on the side.

MR. SANFORD: I just took that down because the builder put beadboard up. Now we want to continue on, finish it up.

CHAIRMAN SCALZO: Very good. That's quite a garage. Very nice.

MR. SANFORD: Thank you. I was standing right here for that, too. I had to go for a variance.

CHAIRMAN SCALZO: We actually granted a variance to a fellow a couple doors down from you.

MR. SANFORD: Yeah. He looked at my garage and fell in love with it.

CHAIRMAN SCALZO: Comments from the Board. Mr. Bell?

MR. BELL: No. I had a conversation with him and his wife while I

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was there. I understand what he's trying to do. I'm good.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: I'm the same.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: I'm the same.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: The same.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have nothing.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: Very quite rural area. No problem.

CHAIRMAN SCALZO: It's great out there. I have no comment. I gave you all my comments. I have nothing more.

You're not kicking it any further out?

MR. SANFORD: Just going to rebuild it structurally. Put more 4 x 4s in and section it out.

CHAIRMAN SCALZO: You've got a big concrete tube underneath.

MR. SANFORD: Yeah. Yeah. My

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architect designed it so I have to change some stuff in order to meet code.

CHAIRMAN SCALZO: Very good.

Are there any members of the public here to speak about this application at 402 Frozen Ridge?

(No response.)

CHAIRMAN SCALZO: Everybody is probably looking for the meeting online.

Very good. At this point any further questions or comments from the Board?

(No response.)

CHAIRMAN SCALZO: If not, I will entertain a motion to close the public hearing.

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

MR. HERMANCE: I'll second it.

CHAIRMAN SCALZO: I think we have a motion from Mr. Bell and a second from Mr. Hermance. Roll call on that, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

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MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed.

This is a Type 2 action under
SEQRA. Is there any discussion on this?
We're going to go through our factors.

Let's see. The balancing test.
Whether the benefit can be achieved by
other means feasible to the applicant. As
the applicant stated, it's preexisting by
the applicant.

An undesirable change in the
neighborhood character or a detriment to
nearby properties. I think it's going to

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go unnoticed.

Whether the request is substantial. Again, compared to the last 27 years -- 29 years --

MR. SANFORD: 29 years it's been.

CHAIRMAN SCALZO: -- it's not going to be substantial at all.

The request will have adverse physical or environmental affects. It does not appear so.

Whether the alleged difficulty is self-created. It is, however it's relevant but not determinative.

Having gone through the balancing test, does the Board have a motion of some sort?

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

MR. MARINO: Second.

CHAIRMAN SCALZO: We have a motion for approval from Mr. Bell and a second from Mr. Marino.

Roll call on that, please.

MS. JABLESNIK: Mr. Bell?

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MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. Good

luck, sir.

MR. SANFORD: Thank you.

(Time noted: 7:30 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 9th day of July 2021.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

JOSEPH PELLEGRINO

17 Huff Road, Newburgh
Section 20; Block 6; Lot 11
AR Zone

----- X

Date: June 24, 2021
Time: 7:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANC
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JOSEPH PELLEGRINO

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN SCALZO: Our next applicant is Joseph Pellegrino, 7 Huff Road in Newburgh, seeking an area variance of the side yard to build a 22 x 26 deck with a gazebo around a hot tub.

Do we have mailings on that, Siobhan?

MS. JABLESNIK: This applicant sent out 16 mailings.

CHAIRMAN SCALZO: 16 mailings. Very good.

Do we have anyone here for the Pellegrino application?

MR. PELLEGRINO: Joseph Pellegrino Junior, 17 Huff Road, Newburgh, New York.

CHAIRMAN SCALZO: Very good. Mr. Pellegrino, as I mentioned a couple applications ago, we all go out there and take a look at what's going on. I was at your place today, rang the bell, heard the dog. The garage door was open. I walked around.

MR. PELLEGRINO: That's the

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mayor.

CHAIRMAN SCALZO: Very good. I just had a couple of questions. You know, I did see a sketch, just a basic sketch. I'm assuming that the Building Department will get the full --

MR. PELLEGRINO: Of the gazebo or the site -- the deck? I have the plans I can show you.

CHAIRMAN SCALZO: Siobhan, did we get those?

MR. PELLEGRINO: I just received the stamped plans.

MS. JABLESNIK: So today -- what you gave me today was for the gazebo, not for the deck. They want to know for the deck.

CHAIRMAN SCALZO: Right. This is all I have.

MR. PELLEGRINO: Okay. I also have a plan for the deck, the plan for the concrete pad for the gazebo. You know, if you'd like to see that, I can show you that.

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CHAIRMAN SCALZO: I feel as though we need to.

And because the dimension that you're showing here, the 14 foot dimension, I'm assuming that you gave that restriction to your engineer or architect and they made sure that they were within the variance that you're asking for. That and -- I don't know how many copies you have. If you could distribute a few for us to take a look at.

I did notice the tombstone up there.

MR. PELLEGRINO: What's that?

CHAIRMAN SCALZO: I noticed the tombstone.

MR. PELLEGRINO: Yeah. We can't move that. We can't move a grave site. No.

MR. BELL: He got me on that one, too.

MR. PELLEGRINO: That's my brother. When he passed away, that was from the United States Navy. So when my

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mother passed away we bought a new stone because he's in the same plot. We took that away and we brought that to the house. He's not buried there.

MS. JABLESNIK: It's just for show.

MR. PELLEGRINO: Just for show.

CHAIRMAN SCALZO: It's a nice memorial.

Why I brought up the stone is I see, you know, you have a dimension of 34.7 off the front corner and then 40 off the rear. Is that stone on your property?

MR. PELLEGRINO: The stone? I think so.

CHAIRMAN SCALZO: I think so. Okay.

MR. PELLEGRINO: I can move it.

I've only got two copies. Maybe you can pass it around.

MR. DONOVAN: If you can speak up. The stenographer is recording.

MR. PELLEGRINO: So what's going to happen is the spa is going to go on the

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concrete pad and the deck is going to be built around that. We're going to build up the grade, pour concrete, and we're going to set the spa and the gazebo on top of that pad. The deck is going to be at the same elevation as the existing deck, and it's going to go around the spa. The gazebo is going to go on top of that.

CHAIRMAN SCALZO: Just so I'm clear and the rest of the Board is clear, what you're asking for here today is a maximum variance. You will be no closer to the property line than 14 feet. That's correct?

MR. PELLEGRINO: Correct.

CHAIRMAN SCALZO: I don't want to put words in your mouth.

MR. PELLEGRINO: Do you want to pass this around?

CHAIRMAN SCALZO: I was looking more for a plan view type. You're giving me details for -- which I understand.

Actually, let the Members take a look at what you've got. That's more of

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the details of the construction.

MR. PELLEGRINO: I have the plans for the gazebo. Would you like that?

CHAIRMAN SCALZO: Really what I believe we're most concerned with is the distance.

So Mr. Pellegrino, at this point we're pretty sure, you know, where your property line is. Just because when we grant a variance, should we grant a variance, that it is very specific in distance.

Will you have a surveyor layout where your property line is so we can verify that you actually are within --

MR. PELLEGRINO: I went off the original site plan.

CHAIRMAN SCALZO: I see that, which is great for the front corner of your house. The rear corner, unless --

MR. PELLEGRINO: It actually opens up. That runs on an angle. If anything, it's more.

CHAIRMAN SCALZO: I'm sure it is

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just by the sketch. How much more, you haven't given me a scaled distance here. That becomes difficult to -- I would recommend that you have it laid out, at least that angle point in your property, because I see the circle. That's actually an angle point. You're south 55, 21 degrees, 38 seconds east. 7503 is that course between there and there. If you had those points laid out, then we would be sure, if we grant you any variances, that you will certainly meet that 14 feet.

MR. DONOVAN: What you don't want to have happen is the deck up and it's 12 feet. Right? Code Compliance comes out and measures the 12 feet and says you have to come back here.

MR. PELLEGRINO: Right.

MR. DONOVAN: That's why the variance the Board issues is going to be an exact variance, or, as the Chairman said, a maximum variance. If you're less than that relative to your distance from the side yard, that's going to be a

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problem.

CHAIRMAN SCALZO: If you're 15 feet instead of 14. Quite honestly, we can put a step up.

MR. McKELVEY: Code Compliance is going to check it anyhow.

CHAIRMAN SCALZO: I don't know how Code Compliance is going to check it. They're not surveyors. They're going to need a professional. They're going to need to know where that particular course, that 75 foot line is.

I am just one voice. There's many here on the Board. Personally I would like to see -- that would be a great assistance to the Building Department if they were --

MR. PELLEGRINO: These two points?

CHAIRMAN SCALZO: These two. That one and that one. There might be something there buried. I don't know. We need to make sure if you're applying for 14 feet -- and I understand exactly what

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you're saying. You have a defined distance of 34.7 feet. Whether it's off a foundation or off your siding, I'm not sure. And then again, the back is most likely a scaled distance. You could have been conservative, but what if it's 39? Now you're off a foot.

Myself, I would like to see as a condition -- should we get that far, as a condition of us granting a variance that those two points get set so the Building Department can verify where you are.

MR. PELLEGRINO: Okay.

CHAIRMAN SCALZO: That's my nickel. I'm going to go to the Members of the Board.

Mr. Bell, how about you? What are you thinking?

MR. BELL: I agree. We do not want to grant and they come back and they say that you're not within the authorized -- you know.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: I agree. It

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should be a condition.

CHAIRMAN SCALZO: Besides that,
any other comments?

MR. HERMANCE: No.

CHAIRMAN SCALZO: It's a great
neighborhood. When I spun around in your
cul-de-sac and took a look across the
river, that's fantastic.

MR. PELLEGRINO: It's a nice
view.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: Nothing.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: You're actually
protecting him by doing that.

CHAIRMAN SCALZO: Thank you.

Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No. I'm with you.

CHAIRMAN SCALZO: At this point
I'll open it up to any members of the
public that wish to speak about this
application, Pellegrino, 17 Huff Road.

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(No response.)

CHAIRMAN SCALZO: Hearing nothing, one last shout at the Board. Anything?

MR. BELL: No.

MR. LEVIN: No.

MR. MARINO: No.

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

MR. McKELVEY: I'll make that motion.

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey. We have a second from Mr. Masten.

Can you roll on that, please, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

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MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed.

Now this is also a Type 2 action
under SEQRA.

We're going to go through our
balancing test. The first one, whether or
not the benefit can be achieved by other
means feasible to the applicant. Looking
at the way the lot is laid out, where the
applicant wants to do this makes perfect
sense relative to the lot. It's going to
come actually further off the back. It's
going to match up to the corner of the
deck.

MR. PELLEGRINO: We want to be
able to access it from the sliding door.
In the wintertime we can have the use of

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the spa. That's why we're enclosing it.
So it's going to be in close proximity of
the door.

CHAIRMAN SCALZO: When I was
shopping for spas the fellow at the store
said to me you don't want to be more than
seven steps way from your house to the
spa.

MR. PELLEGRINO: It will be more
than that. I don't want to put it too far
away.

CHAIRMAN SCALZO: A roof over it.
Take care of that. Very good. That's the
first criteria.

The second, if there's an
undesirable change in the neighborhood
character or a detriment to nearby
properties. I would say no. Everything
that we're looking at with the house is
very nice.

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. MARINO: No.

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MR. MASTEN: No.

MR. McKELVEY: No.

CHAIRMAN SCALZO: Everything you're looking at the house is very nice. My assumption is what he's going to build will be just as nice or nicer than what's there now.

The third is whether the request is substantial. We are clamping down on the side yard, but his neighbors aren't on top of him there either.

MR. BELL: No.

MR. LEVIN: No.

CHAIRMAN SCALZO: The fourth, whether the request will have adverse physical or environmental affects. It does not appear so.

The fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Yes, it's self-created, but the way the house is laid out on the lot, this makes the most sense where the applicant is proposing. You couldn't put it on the other side of

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the driveway. That would be pointless.

Therefore, the Board shall -- if the Board shall approve, will grant the minimum variance necessary and may impose reasonable conditions.

Having gone through the balancing test of the area variance, what is the pleasure of the Board? Do we have a motion of some sort with conditions, if any?

MR. BELL: I would make a motion for approval, but with the condition that he meets the required distance.

CHAIRMAN SCALZO: Right. So Mr. Bell, if I could just put words in your mouth. You'd like to see a professional layout those two points that are going to be most affected on the side property?

MR. BELL: Right.

MR. DONOVAN: If you could identify with specificity those two points for your attorney.

CHAIRMAN SCALZO: Sorry, Dave. So the gazebo and deck are going in this

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JOSEPH PELLEGRINO

49

area here. That's a small -- it's a distance of 75 feet.

If you could find the surveyor that actually did the original subdivision, he's probably got the map.

MR. PELLEGRINO: I'll try. I'll try.

MR. DONOVAN: Can I keep this?

CHAIRMAN SCALZO: That's my application, but --

MR. DONOVAN: I just need this.

CHAIRMAN SCALZO: Sure.

MR. PELLEGRINO: What is the process now?

CHAIRMAN SCALZO: Hang on. We're almost there.

So we had a motion from Mr. Bell, which I put words in his mouth. Do we have a second to that motion?

MR. MASTEN: I'll second it.

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

Before I actually roll on this -- we have a motion to approve with a

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second. Before I actually roll through this, what's happening is it appears as though we're headed towards an approval with the condition you have a surveyor layout those two points.

MR. PELLEGRINO: Okay.

CHAIRMAN SCALZO: At this point you could withdraw your application if you'd like or we can continue.

MR. PELLEGRINO: What is the process? Do I just get that done and submit that or do I have to come before the Board?

CHAIRMAN SCALZO: No. All you have to do is get that done and submit it to the Building Department. We just want to be able to verify it.

MR. BELL: If they come out and measure and it's not correct --

CHAIRMAN SCALZO: They just need to know where they are measuring from.

MR. PELLEGRINO: They want to know exactly the distance.

CHAIRMAN SCALZO: They want to

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know the variance we gave you is the
variance you're using.

So we have a motion and a second.
Siobhan, can you roll on that, please?

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

MR. BELL: It's to protect you.

CHAIRMAN SCALZO: The motion is
carried. Your variance is approved
conditionally, sir. If you could reach
out to someone to get that laid out for
you.

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MR. BELL: That's to protect you.

MS. JABLESNIK: So I can tell Joe tomorrow that's 14 feet, because he's going to be waiting?

CHAIRMAN SCALZO: We didn't take anything away from you. You asked for 14, we're giving you 14. We need to prove it's 14.

MR. PELLEGRINO: You got it.
Thank you very much.

(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 9th day of July 2021.

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

GEORGIA BROWN

1326 Union Avenue, Newburgh
Section 111; Block 1; Lot 3.2
R-1 Zone

----- X

Date: June 24, 2021
Time: 7:45 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman (recused)
DARRELL BELL
GREGORY M. HERMANCE (recused)
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN McKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: ERIN McCONNELL,
GEORGIA BROWN & MICHAEL BURBRIDGE

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN SCALZO: All right. The next applicant is Georgia Brown at 1326 Union Avenue, Newburgh, seeking an area variance of the front yard to install a ground mounted solar array.

Mailings on this, Siobhan?

MS. JABLESNIK: This applicant sent out 38 letters.

CHAIRMAN SCALZO: Very good. 38 letters.

In this instance Mr. Hermance and I need to remove ourselves from this. We have a connection to the Thruway Authority and we can't vote on anything that touches the Thruway Authority.

Counselor, if you could take care of the rest of this, please.

MR. DONOVAN: Will do.

Folks, come on up front. If you could, please identify yourself for the stenographer.

MR. BURBRIDGE: Mike Burbridge, homeowner, 1326 Union Avenue. Me and my wife, Georgia.

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MS. McCONNELL: I'm Erin
McConnell with Empire Solar.

I have a few photos. I wanted to
present additional photos because the ones
I had were from kind of spring. It's just
additional pictures for you guys to take a
look at.

I believe you all went to the
property already so you'd see what's going
on.

MS. JABLESNIK: Can I have one
for the file, Erin?

MS. McCONNELL: Sure.
Present?

MR. DONOVAN: Go ahead, ma'am.

MS. McCONNELL: Sure. We're
looking to install 14.6 KW ground-mounted
solar array. It's 40 LG 365 panels on 2.7
acres. The array is 760 square feet.
It's going to be ten rows of four.

The property is naturally well
screened. There's trees are pretty much
surrounding everything. You can't really
see the highway at all. You can't see the

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neighbors.

We're looking to install ground-mounted instead of the roof mount because basically the roof is not adequate. It's a hip roof. It would be difficult to get forty panels on there with the fire code and everything. We want to meet the customer's energy needs so we're going with the ground mounted here.

Again, we feel like it would be beneficial since the customer has the ability to go solar.

We requested a variance. We feel like it's not substantial because this property is unique in the sense that although this ground mount feels like it's in the backyard because the way the code is written, we're considering it the front.

It won't have an adverse affect because ground mount -- solar is great for the environment. You can't see anything.

It's really not a hardship that's self-created, again because I feel it's

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the way the code has been written.
Fortunately most things that would be
considered in his backyard are in the
front. That's why we're here.

MR. DONOVAN: Is there any reason
why you chose this location or why you
couldn't shift it to a different location
that would be behind the house?

MS. McCONNELL: If you look at
kind of the new photos that I've shown --
first of all, he just built a pool. There
is not a lot of space directly behind.
There's a whole row of trees. You can see
from the aerial of the GIS map, there's
not a lot of space back there.

Besides that point, I feel that
the house in actually probably in the
shade.

MR. BURBRIDGE: Where it's at,
this is the best spot where it's concealed
from anyone's point of view.

MR. DONOVAN: So Board comments.
Let's start with Mr. Marino.

MR. MARINO: I think I

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understand. I was there yesterday or the day before and spoke to your wife. There's a lot of action going on there, but it does look fine. It's isolated. The neighbors on either side wouldn't see anything. Going up and down the road you can't see anything. It seems reasonable.

MR. DONOVAN: Mr. Masten?

MR. MASTEN: I have no questions.

MR. DONOVAN: Mr. Levin?

MR. LEVIN: Nothing.

MR. DONOVAN: Mr. McKelvey?

MR. MCKELVEY: I think it's well shielded.

MR. DONOVAN: Mr. Bell?

MR. BELL: From what I saw today, you're looking at the front of the house, you're looking right around the corner.

MS. McCONNELL: It kind of dips down.

MR. BELL: Yeah, it dips down. A lot of trees. That's fine.

MR. DONOVAN: Do any members of the public have any comments on this

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application?

(No response.)

MR. DONOVAN: Any motions relative to the public hearing?

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

MR. BELL: I'll second it.

MR. DONOVAN: Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MR. DONOVAN: This is a Type 2 action under SEQRA.

We'll now go through the balancing test. The first criteria is whether or not the benefit can be achieved by other means feasible for the applicant

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to pursue other than the requested
variance.

MR. BELL: No. He said the roof
pitch is not adequate.

MS. McCONNELL: Yeah. It's a hip
roof.

MR. BELL: A-frame.

MS. McCONNELL: With the fire
code we would lose a lot. Most of it
would have to go in front.

MR. BURBRIDGE: It wouldn't look
good either.

MS. McCONNELL: That would have
an adverse affect on the neighborhood.

MR. BELL: It would. Okay.

MR. DONOVAN: The second factor
is whether there would be an undesirable
change in the neighborhood character or a
detriment to nearby properties.

MR. BELL: No.

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

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MR. DONOVAN: The third is whether the request is substantial, which it is because it's a complete request. That's just a fact to be considered.

The fourth is whether or not -- when I say complete, you're not allowed to have it in the front yard. The fourth is whether or not the request will have an adverse physical or environmental impact.

MR. BELL: No.

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. DONOVAN: The last is whether the alleged difficulty is self-created, which I know you argue it's not but it actually is because you're charged with the knowledge of the zoning. That's not a game changer in the area variance context.

So having gone through the balancing test, is there any motion relative to the application?

MR. BELL: I'll make a motion for

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approval.

MR. MARINO: I'll second that.

MR. DONOVAN: Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. McCONNELL: Thank you.

(Time noted: 7:52 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 9th day of July 2021.

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

JEREMY & DAWN PRATI

7 Shaker Court, Wallkill
Section 2; Block 2; Lot 37
RR Zone

----- X

Date: June 24, 2021
Time: 7:56 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANC
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JEREMY PRATI

----- X

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Newburgh, New York 12550
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CHAIRMAN SCALZO: Moving on. Our next applicant is Jeremy and Dawn Prati, 7 Shaker Court in Wallkill, seeking an area variance of the rear yard and side yard to build a 15 x 31 rear deck. This is off East Road.

Siobhan, do we have mailings?

MS. JABLESNIK: This applicant sent out 30 letters.

CHAIRMAN SCALZO: Do we have anyone here representing 7 Shaker Court?

MR. PRATI: Jeremy Prati, homeowner.

CHAIRMAN SCALZO: I was at your place today. I rang your bell. You have one of those Ring --

MR. PRATI: It was a bad connection. I tried to get you.

CHAIRMAN SCALZO: I have a Ring and I'm not happy with it. There's a delay. By the time I say hello they've already --

MR. PRATI: It might have been because I was at work. The wireless

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service isn't so great.

CHAIRMAN SCALZO: Got you. I was shuffling a bunch of papers so you would know it was me or what I was doing.

I don't want to say your application is pretty simple here. I walked around the back there. You've got a great kitty that was sitting on the stairs. It wouldn't come to me. I'm a big cat guy.

I did see a plate against the house. Is that --

MR. PRATI: There was an existing deck on the house. Basically all this started with I had an issue with my septic system so then I did some work downstairs. We noticed there was water damage and basically determined it was coming from the poor grade in the back of the house. I took the old deck off -- got a permit for that, took it off, replaced the drainage pipe and backfilled it. Basically I'm just trying to get a new deck put back up in place. It's actually

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smaller than the original.

CHAIRMAN SCALZO: Okay. I don't have all that many questions. You can't see your neighbors. I guess you might be able to.

MR. PRATI: In the winter, yeah. They don't mind. We say hi to each other. We're pretty good with each other.

CHAIRMAN SCALZO: Good. I don't have any other comments on that.

Mr. Marino?

MR. MARINO: I'm good.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No. When I was there I saw a couple copperheads, the sun was out, on your wall.

MR. PRATI: Copperheads?

MR. MASTEN: Yes.

MR. PRATI: Really. Which wall?

MR. MASTEN: At first I thought it was a garter snake but I knew the color. They saw me and they took off.

MR. PRATI: Toward the back of the house or in the front of the house?

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MR. MASTEN: On the driveway
side.

MR. PRATI: That's possible.

MR. MASTEN: There's a lot of
rocks on the wall there.

MR. PRATI: Okay. Interesting.
There's lots of things.

MR. DONOVAN: Another reason why
I don't do site visits.

MR. PRATI: It's very lush. A
lot of places for them to hide.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I'm okay.

MR. McKELVEY: I'm okay.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: No. I'm good.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Nothing. I'm glad you
saw them and not me.

CHAIRMAN SCALZO: I jumped on my
brother's foot golfing, trying to get out
of the way of a snake.

Anyway, if we have anyone here
from the public that wishes to speak about

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this application?

(No response.)

CHAIRMAN SCALZO: Looking back to the Board. If there are no other comments, I'll look for a motion to close the public hearing.

MR. MASTEN: I'll make the motion.

MR. McKELVEY: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Masten. We have a second from Mr. McKelvey. Roll call on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

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MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed.

This is a Type 2 action under
SEQRA.

We're going to go through the
five factors, the first one being whether
or not the benefit can be achieved by
other means feasible to the applicant.
The applicant just mentioned this is
replacing a smaller deck than what used to
be there.

MR. PRATI: The deck is smaller
now than what used to be there.

CHAIRMAN SCALZO: Pardon me.
Thank you for clarifying.

So other means feasible. Sure.
Make it smaller. It doesn't appear to be
out of character.

Which leads to the second
criteria, if there's an undesirable change
in the character of the neighborhood or a
detriment to nearby properties.

MR. BELL: No.

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MR. McKELVEY: No.

CHAIRMAN SCALZO: It does not appear so.

The third, whether the request is substantial. It does not appear so.

MR. McKELVEY: No.

The fourth, whether the request will have adverse physical or environmental affects. It sounds like you took care of your environmental affect there.

MR. PRATI: Yeah.

CHAIRMAN SCALZO: Fifth, whether the alleged difficulty is self-created which is relevant but not determinative. Of course it is. Again, he's replacing a deck with a smaller deck.

Having gone through the criteria, does the Board have a motion of some sort?

MR. BELL: I'll make a motion to approve.

MR. MARINO: Second.

CHAIRMAN SCALZO: I have a motion to approve from Mr. Bell. We have a second

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from Mr. Marino. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The
variance is approved. Good luck.

MR. PRATI: Thank you very much.
Thank you for your time.

(Time noted: 7:58 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
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I further certify that I am not
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proceeding by blood or by marriage and that I
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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

MENENDEZ PROPERTY, LLC

856 River Road, Newburgh
Section 9; Block 1; Lot 40
R-1 Zone

----- X

Date: June 24, 2021
Time: 7:58 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

----- X

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CHAIRMAN SCALZO: We are now moving on to what was held open from the May 27, 2021 meeting. We have the Menendez Property at 856 River Road in Newburgh, seeking an area variance of the rear yard for all new decks. From what I understand, the raised roof to add a fourth floor is no longer on the table. And a use variance to restore and reestablish the use of a nonconforming three-family dwelling.

This is a continuation from last month. Do we have anyone here representing that application?

(No response.)

CHAIRMAN SCALZO: We do not. Okay. We have two options here.

MR. DONOVAN: Do we have any additional submissions? They were advised last month that they --

MS. JABLESNIK: I haven't heard from them either. Nothing.

MR. McKELVEY: I think we told them what we needed.

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MR. BELL: We did tell them.

MR. MARINO: I'm not sure she understood it.

MR. DONOVAN: She had a professional. She had an architect here.

MR. MASTEN: That's right. She did.

MR. BELL: He was standing right there with her.

MR. DONOVAN: I interrupted the Chairman.

CHAIRMAN SCALZO: I was going to say we have two options. One would be to extend our public hearing for this or vote on the application as it has been submitted, unless you have something else.

MR. DONOVAN: I would just say the Board in the past, and you don't have to continue to do this, when people have not shown up like this, you've extended the public hearing for one month, you've had me write them a letter that says we've extended the public hearing to July. If you're not going to come in July,

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generally we would close the public hearing and deem the application withdrawn. You could if you wanted.

CHAIRMAN SCALZO: Very good. Thank you for reminding me. We did that with Gas Land.

So my opinion, and there are many of us here, is that that would be a wonderful opportunity for them to reappear in the month of July.

So I'll look to the Board for a motion to keep the public hearing open.

MR. McKELVEY: I'll make that motion.

Dave, you're going to send a letter?

MR. DONOVAN: That's correct.

MR. McKELVEY: I'll make a motion that Dave send a letter.

MR. BELL: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey, we have a second from Mr. Bell to keep the public hearing open.

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Roll call on that, please.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The public hearing will remain open to the July meeting. Counsel will send a letter.

(Time noted: 8:02 p.m.)

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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

LUIS QUIZHPI LLIHUICHYZHCA
659 Gardnertown Road, Newburgh
Section 53; Block 4; Lot 14
R-1 Zone

----- X

Date: June 24, 2021
Time: 8:02 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: LUIS QUIZHPI

----- X

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LUIS QUIZHPI LLIHUICHUZHCA

82

CHAIRMAN SCALZO: The last one on the agenda this evening is for 659 Gardnertown Road, seeking an area variance of the front yard to keep a 16 x 15 shed. Again this is held open from the May 27th meeting.

Do we have anyone here representing that application this evening?

MR. QUIZHPI: Yes.

CHAIRMAN SCALZO: From what I understand, you were not in attendance last month. You're here now. That's good. So if you could please come forward, introduce yourselves. We have all visited the site. Please explain why you feel as though we should grant the area variance for your application.

MR. QUIZHPI: Hello everyone. I'm going to try my best. My English isn't --

MR. DONOVAN: I'm sorry to interrupt. Just tell us what your name is.

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MR. QUIZHPI: My name is Luis Quizhpi.

MS. JABLESNIK: You can take your mask down. That will be easier.

MR. QUIZHPI: My name is Luis Quizhpi, I'm from 659 Gardnertown Road.

CHAIRMAN SCALZO: Very good. Like I say, we have your application here.

The variance that you're seeking -- you have already built the shed. The shed is in front of the house which does violate the code in this case. It's a storage shed. There's no electric, no plumbing. Only for storage.

I drove past the site today. I didn't see any other garages in front of homes. I did go down around the corner. There's a garage that's actually right on the corner, and that appears to be very old.

We actually gave a variance to the applicant down on the other side of Gardnertown, but they backed right up to a storage yard for a landscaper. I don't

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want to call it kind of industrialized in that area. This applicant, in my opinion, is kind of more towards the residential-ish type area. That's just my observations.

In this case I'm going to look to the Members of the Board. I'll start with Mr. Marino.

MR. MARINO: Do you have any additional room where the storage shed could have been built a little further back from the road? Is your lot deep enough for that?

MR. QUIZHPI: I can make it a little bit smaller. I don't have any garage there to store my tools and stuff like that for cutting the grass and snowblowers. The reason why I built there -- the first thing, I was not too sure if we need a building permit. This is my first time as a homeowner. Then that's the reason why I built it. I know I have knowledge to build the house. Actually I grew up in construction with my dad. It's

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pretty solid built. I was not too sure if we needed to get a permit, and that's why I'm here. If I need to move it more to the back, I could, you know.

CHAIRMAN SCALZO: Okay. Thank you. It just went to where I was hoping to. It appears as though you're not on footings, you're on 4 x 4s, so it could actually be picked up and moved.

MR. QUIZHPI: Yeah. It's bolted. I mean it's going to be a little more work, obviously. I have to lift it and take the bolts out. It's every 16 inches bolted and the concrete. The concrete is like 12 or 16 inch solid concrete. I don't do the concrete, actually. The concrete was there.

CHAIRMAN SCALZO: I actually looked at some Google --

MR. QUIZHPI: The concrete was there.

CHAIRMAN SCALZO: The concrete, I was looking at it and I'm like geeze, it almost looks like there used to be a

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garage there, but I didn't see anything historical -- I was trying to help you out. I didn't see anything in historical photos that supported that there was a garage there at all.

So all right. Mr. Marino, you went exactly where I was thinking to. Mr. Marino, do you have any other questions?

MR. MARINO: And the building itself, it's not a finished building yet? It looks like to me there's still visible work to do on the building. You would do that on the building when you move it back?

MR. QUIZHPI: Yes. The reason why I don't finish up the building is I know I need the permit so I stopped there. Obviously a little messy it looks like it. Right now I don't finish up any siding. Inside I'm just going to leave what it is now, just the framing. It's just for the storage. Outside, yes, I want to finish up the siding.

MR. MARINO: Thank you.

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CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have nothing.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: Nothing.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: Nothing.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: That was my exact thought. If he could move it back even with the fence line, you wouldn't even have to come in front of us.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: He hit the nail on the head. I'm good.

MR. QUIZHPI: Okay.

CHAIRMAN SCALZO: I just heard you say okay. Again, you're violating code because you're in front of your house. If you were to move it back -- it appears that you're agreeable to move it back. Everybody needs a garage. Everybody loves storage. I don't want to see you tear it down.

If the applicant in this case is

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offering to move it back to further back than the house line, is that a -- we vote on the application and reject it as it is or does he withdraw his --

MR. DONOVAN: So are you sure you can get the accessory building at least even with your house?

MR. QUIZHPI: Yes. I can move close to the fence. I can take the fence out, just that section for the garage, and I can move it like another foot from the fence inside. Then right now -- and then from the street, I think it was 33 feet, I think. I don't remember but I think 33 feet. Whatever it is, I can just move it an extra 2 feet from wherever the street --

MR. DONOVAN: And when could you do that, do you think?

MR. QUIZHPI: I can do that probably like in two weeks I would say. Still I have to frame the solid concrete there. Additional solid concrete.

MR. DONOVAN: My suggestion is --

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CHAIRMAN SCALZO: Hold the public hearing open for one more month, allow you to move the shed back further than the front house line and then we'll be done.

MR. DONOVAN: Correct.

MR. QUIZHPI: Okay. So I want to try to understand. You want me to move -- just like let's say from the fence --

CHAIRMAN SCALZO: Come on up.

I know you can't capture this, Michelle. I'm going to do a little sketching.

Currently this is your layout. This front face is even or behind that house line. So this whole thing has to go back that far.

MR. QUIZHPI: Okay. The whole thing?

CHAIRMAN SCALZO: Yup.

MR. QUIZHPI: So the front line basically has to be even with the house?

CHAIRMAN SCALZO: Correct. If you want to be cautious, you may go an extra foot.

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MR. QUIZHPI: What about for the fence? This is the fence to the --

CHAIRMAN SCALZO: 5 feet. 5 feet from your property line minimum.

MR. QUIZHPI: So I would need at least -- because I have to rent --

CHAIRMAN SCALZO: I know the process. Our next meeting is a month from now. If you need two weeks, you can actually have 29 days. Do you think you can get it done in 29 days?

MR. QUIZHPI: I'm going to try because I have to -- still I have to build the concrete, I have to rent the boom truck. I don't know how soon it's going to be available.

CHAIRMAN SCALZO: Those are the options that we're going to give you.

MR. QUIZHPI: Okay.

CHAIRMAN SCALZO: We will hold the public hearing open for one month. So you're going to have to come back.

MR. QUIZHPI: Sure.

CHAIRMAN SCALZO: I guess we're

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going to have to, for lack of a better phrase, cross that bridge when we come to it if you're not done. If you're not done, I would certainly have all the steps that you've taken that -- where you landed --

MR. QUIZHPI: Right. Okay.

CHAIRMAN SCALZO: Okay. Sound reasonable?

MR. DONOVAN: Just a motion to adjourn the public hearing.

CHAIRMAN SCALZO: To keep the public hearing open. Very good.

In this case I was going to say anyone from the public here to talk about this application, but obviously there's not.

I'll look to the Board for a motion to keep the public hearing open to the July meeting.

MR. MASTEN: I'll make a motion we keep the public hearing open.

MR. LEVIN: I'll second it.

CHAIRMAN SCALZO: Very good. We

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have a motion from Mr. Masten. We have a second from Mr. Levin. Roll call on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is going to remain open. Our meeting for the month of July is on -- that would be the 22nd. July 22nd. Thursday, July 22.

MR. QUIZHPI: The same time, 7?

CHAIRMAN SCALZO: 7:00. I will also mention we always do the holdovers last. So you don't have to be here right

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at 7.

MR. QUIZHPI: So another question. If I remove -- let's say I remove completely the garage, if I move it more to the back, still I have to meet the building permit or --

CHAIRMAN SCALZO: For any structure, any accessory structure you do need a building permit.

MR. QUIZHPI: Okay. Okay.

CHAIRMAN SCALZO: Touch base with those guys. You'll see Siobhan. You may not see her.

MS. JABLESNIK: You probably won't see me but they're all nice.

MR. QUIZHPI: July 22nd you said?

CHAIRMAN SCALZO: Yes.

Very good. Thank you so much.

MR. QUIZHPI: Thank you very much. Have a good night.

CHAIRMAN SCALZO: The remaining order of business this evening would be for an acceptance of the meeting minutes for last month's meeting. I did not

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attend, therefore I can not verify whether or not they are indicative, although I very rarely, if at all, find anything wrong with them.

So a motion to approve the minutes from the May meeting?

MR. HERMANCE: I'll make a motion to approve the minutes.

MR. BELL: I'll second.

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

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Motion to close the meeting?

Motion to adjourn?

MR. BELL: I'll make a motion to adjourn.

CHAIRMAN SCALZO: I'll second.

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All in favor?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 8:17 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 9th day of July 2021.

Michelle Conero

MICHELLE CONERO