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

NORRIS A. CHESTER
8 Kentucky Drive, Newburgh
Section 105; Block 3; Lot 6
R-3 Zone

----- X

Date: June 25, 2026
Time: 7:03 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
LATWAN BANKS (from 7:08 p.m.)
JAMES EBERHART, JR.
GREGORY M. HERMANCE
JOHN MASTEN
JAMES POLITI
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: I'd like to call
3 the meeting of the Zoning Board of
4 Appeals to order. The order of business
5 this evening are the public hearings
6 which have been scheduled.

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

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

23 Roll call, please.

24 MS. JABLESNIK: Latwan Banks will
25 be here shortly.

2 James Eberhart.

3 MR. EBERHART: Present.

4 MS. JABLESNIK: Greg Hermance.

5 MR. HERMANCE: Here.

6 MS. JABLESNIK: John Masten.

7 MR. MASTEN: Here.

8 MS. JABLESNIK: Welcome back James
9 Politi.

10 MR. POLITI: Here.

11 MS. JABLESNIK: Donna Rein.

12 MS. REIN: Here.

13 MS. JABLESNIK: Darrin Scalzo.

14 CHAIRMAN SCALZO: Here.

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

19 CHAIRMAN SCALZO: If we could all
20 please rise for the Pledge.

21 (Pledge of Allegiance.)

22 CHAIRMAN SCALZO: We're a little
23 light on the agenda tonight, which is
24 wonderful, but that doesn't mean we're
25 going to finish early.

2 Before we get started, I want to
3 welcome back Jim Politi to the Zoning
4 Board of Appeals. Jim took a short stint
5 in other activities, but we're glad to
6 have you back. Sorry to see Darrell go,
7 but if we've got to backfill that spot
8 with somebody, it's nice to have the
9 person who was here before. Welcome
10 back, Jim.

11 MR. POLITI: Thank you.

12 CHAIRMAN SCALZO: Our first applicant
13 this evening is Norris A. Chester at
14 8 Kentucky Drive. This is a Planning
15 Board referral for area variances of lot
16 area, lot width and the rear yard to
17 utilize an existing accessory structure
18 on the premises as a second residence.

19 Do we have mailings on this,
20 Siobhan?

21 MS. JABLESNIK: This applicant sent
22 38 letters.

23 CHAIRMAN SCALZO: 38 letters.

24 Okay. We have seen the property,
25 we have reviewed the application, looked

2 at the map.

3 We have with us this evening
4 Mr. Minuta.

5 MR. MINUTA: Good evening, Chairman
6 and Members of the Board. Joseph Minuta
7 with Minuta Architecture. I'm here to
8 represent the project.

9 I think we have a relatively simple
10 application tonight. They are simply
11 area variances that exist -- are existing
12 nonconformities, the first being the lot
13 area of 50,000 square feet is required
14 where 21,236 -- 21,246 is provided. The
15 lot width of 125 feet is required where
16 we have 124 feet 7 inches. Lastly, the
17 rear yard, 50 feet is required where 10
18 foot 4 inches is provided.

19 The buildings on the property, with
20 regard to the building in the rear that
21 we're discussing and the main home, have
22 certificates of occupancy. They were
23 built back in 1988 I believe it was.
24 4/7/88. That's why we're here tonight,
25 to fulfill these area variances.

2 CHAIRMAN SCALZO: Okay. Thank you.
3 This one is, I'm not going to call it a
4 head scratcher. It might not be quite as
5 simple as you represent.

6 You're calling it a second dwelling.
7 You're not calling it an accessory
8 apartment. In my time on the Board, the
9 twelve, fourteen years I've been here,
10 we've only approved two dwellings on a
11 single lot for a preexisting nonconforming
12 situation. That was out on Lakeside Road
13 right next to the Lakeview House. This
14 is a little unusual because of what we're
15 calling it here.

16 That being said, when it comes to
17 the definition of residential two-family,
18 Counsel, if you could --

19 MR. DONOVAN: I guess how did you
20 get here? We looked at the definition of
21 two family and it said one building.

22 MR. MINUTA: So here's how we're
23 here tonight. So the background of the
24 project. So the Chesters purchased the
25 property. They want to house their

2 parents in an accessory dwelling. They
3 originally wanted to do it as what they
4 call a mother/daughter accessory
5 building. Typically that's attached to
6 the building. However, in this case
7 this preexisting building is already
8 on the property. They want to utilize
9 this building for that.

10 Now, in order to get to where we
11 are tonight -- the zone does allow for
12 a two-family dwelling on the property,
13 detached. Per the discussions I had
14 with Jim Campell, which we went back
15 and forth in e-mail on, the bottom
16 line here is that they can do it as a
17 two family as an accessory, so --
18 excuse me. Not as an accessory. As
19 a two family, period. It's because
20 it's not attached.

21 So we're essentially providing
22 the same thing we're trying to accomplish
23 but under the guise of what is written
24 in the local law.

25 MS. REIN: That gives us two

2 separate dwellings.

3 MR. MINUTA: Pardon me?

4 MS. REIN: That gives us two
5 separate dwellings.

6 From what I've seen of that
7 accessory building, that's going to
8 have to be torn down and rebuilt.

9 MR. MINUTA: Why is that?

10 MS. REIN: Because it looks like
11 it's falling apart. Can you live in there?

12 MR. MINUTA: Yes.

13 MS. REIN: Okay.

14 MR. MINUTA: It's going to require
15 a building permit and we're going to have
16 to do some things to bring it up to code
17 compliance.

18 MS. REIN: What you're asking for
19 is two one-family homes on one lot.

20 MR. MINUTA: No, no. That's not
21 what I'm asking for. The sole purpose
22 here is for area variances only. They're
23 existing nonconforming. The Planning
24 Board will make the determination as to
25 whether we can do it or not.

2 All we're looking for tonight is
3 planning -- excuse me, area variances.
4 Nothing else.

5 MS. REIN: Okay. Because you wrote
6 in here, in the information I got, it was
7 for another residence. For a second
8 residence.

9 MR. MINUTA: It will be if the
10 Planning Board approves it, which, again,
11 is permitted in the zone. So we're not
12 looking for a use variance for any of the
13 above. We're simply here for an area
14 variance tonight.

15 MS. REIN: Thank you.

16 MR. MINUTA: It has nothing to do
17 with the use at this point.

18 MR. DONOVAN: Joe, where I'm hung
19 up, clearly under column D, two-family
20 dwellings not to exceed two dwelling
21 units per lot are permitted.

22 MR. MINUTA: Yes.

23 MR. DONOVAN: When I look at the
24 definition of a two-family dwelling, it's
25 a single structure. You have two structures.

2 MR. MINUTA: Correct.

3 MR. DONOVAN: Right. The only time
4 we've seen this before I think is with an
5 accessory apartment, which is a special
6 permit, not -- Joe, do you know?

7 CHAIRMAN SCALZO: A maximum of 700
8 square feet. It can be a detached
9 building.

10 MR. MINUTA: And here's the
11 situation. So 900 square feet is the
12 requirement for the second family.
13 Because we don't fit the requirement --
14 it's 900 square feet now. Because we
15 don't fit the requirement of an accessory,
16 that's why it's got to be a two family,
17 which, again, is permitted in the zone.

18 CHAIRMAN SCALZO: Sure. Unless you
19 converted that 200 square feet to a
20 storage area and not part of the dwelling,
21 then you would fit the 700 square feet of
22 the accessory apartment.

23 MR. MINUTA: Not according to what
24 my conversations have been with Jim
25 Campell. He ordered us here. He

2 basically showed us the path in which
3 to achieve this, so that's why we're
4 here tonight.

5 Again, we're not here to discuss
6 a two family, a second family, the
7 use of it. We are only here, per
8 Dominic Cordisco's letter, for the
9 variance of the area.

10 CHAIRMAN SCALZO: Okay. Going on
11 history again, I can't recall the name of
12 the road but it's behind the old Joyce
13 Beverage building. It's a dead end that
14 leads to the warehouse. We had an
15 application and they were trying to do,
16 not something similar but convert a
17 single-family to a multiple-family
18 dwelling. It didn't meet the area
19 criteria for lot surface or the actual
20 area of the lot.

21 Folks, I don't know, on the Board,
22 if you happen to recall that. It's on 32
23 almost by the Cronomer Valley Firehouse
24 but on the opposite side of the street.

25 MS. JABLESNIK: Berry Lane.

2 CHAIRMAN SCALZO: Berry Lane, yes.

3 MS. JABLESNIK: That was me.

4 CHAIRMAN SCALZO: Thank you.

5 So anyway, that one we had before
6 us. That's the only thing I can think of
7 that was similar to this.

8 The applicant's requirement is
9 50,000 square feet. They currently have
10 21,000 feet.

11 It's serviced by municipal services.
12 Correct?

13 MR. MINUTA: Correct.

14 CHAIRMAN SCALZO: I see there's a
15 detail that shows --

16 MR. MINUTA: Yes and no. May I
17 clarify?

18 CHAIRMAN SCALZO: Sure.

19 MR. MINUTA: There is currently a
20 well on the property. They are connected
21 to the sewer which is serviced by the
22 City of Newburgh. We just received a
23 letter from the city stating that we
24 could attach the second dwelling to that
25 service.

2 A new water tap will be provided
3 to the second building, so it will
4 have completely separate services.

5 Again, I don't want to muddy the
6 waters on the use. The use has nothing
7 to do with why we're here tonight.
8 The only reason we're here tonight is
9 for the area variances that exist.

10 CHAIRMAN SCALZO: I'll hear comments
11 from the rest of the Board and the public.
12 I'm going to look to my left.

13 Ms. Rein, comments, questions?

14 MS. REIN: I understand exactly
15 what he's saying, but then I'm thinking
16 why did they put it in there for us to
17 read anyway if they didn't want us to
18 consider it, what it's going to be used
19 for.

20 CHAIRMAN SCALZO: It's going to be
21 used for occupancy by full-time occupants.

22 MS. REIN: Right, but this gentleman
23 is telling us that's not a consideration,
24 we're just looking at the variances.

25 I understand what you're saying,

2 but then why put that in here for us to --

3 CHAIRMAN SCALZO: Ambiguities in
4 the code is I think what led this here,
5 or at least in the language definition
6 compared to what the charts in the
7 bulk tables say.

8 MR. DONOVAN: Mr. Minuta is not
9 wrong. If you look at the referral from
10 the Planning Board, it doesn't say that
11 it needs relief for a second dwelling to
12 be a two family. It just calls out
13 certain areas.

14 It just struck me as odd. When you
15 read the definition of a two family, it's
16 one building, but that's not why it was
17 sent here.

18 CHAIRMAN SCALZO: Has the Planning
19 Board ever sent us something that was,
20 I'm not going to say misrepresented but
21 perhaps the Planning Board called it
22 wrong?

23 MR. DONOVAN: Well, they may think
24 we've called certain things wrong. There's
25 a different forum to second guess that. Or

2 if you think there's another issue, you
3 know, I guess you could either refer it
4 back or you could have something in your
5 decision that says to the Planning Board
6 hey, we have no issues -- assuming
7 that you don't, no issues with the
8 area variance, but we read the two-
9 family dwelling to say it needs to be
10 one building. You know, you guys need
11 to take that into consideration when you
12 issue your approval.

13 MR. MINUTA: Mr. Donovan, that's
14 exactly what's been presented at the
15 Planning Board and that's exactly the
16 Planning Board's authority on this topic.

17 CHAIRMAN SCALZO: Mr. Minuta, here's
18 where this does not apply. I'm going to
19 say it out loud just because of the
20 industry that I'm in. Have you done any
21 de-constructive testing to verify what
22 the footings are? If you have to demolish
23 it and build to code for what a dwelling
24 is, you have the opportunity to change it.
25 I'm curious. Have you done any

2 de-constructive testing to verify the
3 adequacy of the footings in the
4 dwelling?

5 MR. MINUTA: I don't need to
6 because it already has a certificate of
7 occupancy.

8 MS. REIN: It already has what?

9 CHAIRMAN SCALZO: For an accessory
10 structure?

11 MR. MINUTA: Correct. Which was
12 used notoriously in the Town as a karate
13 studio by the prior owner. People would
14 come in to the studio. It's got heat,
15 it's got -- they purchased it this way.
16 It's got radiant heat, electric, it's got
17 insulation, it has finishes on the
18 interior. It's been used as a finished
19 space, and they purchased it as a
20 finished space. The Town has it down as
21 a completed certificate of compliance
22 for, the date was 4/7 of 1988.

23 CHAIRMAN SCALZO: What did the CO
24 call --

25 MR. MINUTA: They called it a shed.

2 CHAIRMAN SCALZO: A shed or -- they
3 called it a shed?

4 MR. MINUTA: So again, we're not
5 here for -- I respect everybody's
6 concerns on the topic. We are not here
7 for the use. We are here strictly for
8 the area variances, which, as you know,
9 is a different barometer for an existing
10 nonconformity, which, frankly, does not
11 normally need to have to go to Zoning,
12 it's already sort of grandfathered if you
13 will. We are here tonight to clear the
14 record.

15 Whether the project goes forward or
16 not, right, whether the Planning Board
17 decides to approve it or not, the same
18 existing nonconformities still exist, and
19 that's why we're here this evening, so
20 that this property can be in compliance
21 with the current zoning code.

22 CHAIRMAN SCALZO: Okay. Ms. Rein,
23 I didn't want to cut you off.

24 MS. REIN: I'm good now.

25 CHAIRMAN SCALZO: Mr. Masten,

2 comments, questions.

3 MR. MASTEN: Not at this time I
4 haven't, Darrin.

5 CHAIRMAN SCALZO: No. Okay.

6 Mr. Politi.

7 MR. POLITI: It's probably not
8 applicable to what you're -- to the area
9 variances. Going by that building, I
10 walked around it several times and it's
11 on 4 by 4 footings. I mean, when you go
12 to the residential -- again, this is
13 probably not ours to discuss. That's
14 buildable as --

15 MR. MATTINA: He's going to have to
16 meet the requirements of the residential.

17 CHAIRMAN SCALZO: That's Code
18 Compliance. That's out of our area.

19 MR. POLITI: I guess it's the unit
20 itself, looking at it.

21 MR. MINUTA: I can totally respect
22 that, but --

23 MR. POLITI: Not why you're here.
24 I know.

25 MR. MINUTA: The other departments

2 can take care of their portion of it.
3 Ours is very clear tonight, otherwise I
4 would have come before you tonight for a
5 use variance as part of the application,
6 which it is not.

7 MR. POLITI: Let me just make sure.
8 If it's a shed, why would we have to
9 approve it? Isn't it already 10 feet?

10 CHAIRMAN SCALZO: Accessory
11 structures in that zone I believe are 5
12 feet.

13 That's not it. That's not what
14 we're looking for here. The total lot
15 area needs to be 50,000 square feet.

16 MR. POLITI: I'm just saying, they
17 called the year yard 50 --

18 MR. MINUTA: There are three
19 variances being requested.

20 MR. DONOVAN: It wouldn't be an
21 accessory structure.

22 CHAIRMAN SCALZO: Not anymore.

23 MR. DONOVAN: It would be two
24 primary structures.

25 MR. POLITI: Okay. I'm good.

2 CHAIRMAN SCALZO: Mr. Hermance.

3 MR. HERMANCE: On that same note,
4 an accessory structure can be 10 foot or
5 5 foot off the property line, but what
6 about a residence? How far does that --

7 MR. DONOVAN: 50. That's why they
8 need the variance, for that requirement.

9 MR. POLITI: That was my confusion.

10 MR. HERMANCE: That's a 40 foot --

11 MR. DONOVAN: 39.

12 MR. HERMANCE: 39.7.

13 MR. DONOVAN: Something like that.

14 CHAIRMAN SCALZO: Required is 50.
15 Existing is 10 feet 4 inches for the
16 architects, 10.3 for the engineers.

17 MR. DONOVAN: For the attorneys
18 it's 35 because we round it up.

19 MR. HERMANCE: It's substantial.

20 CHAIRMAN SCALZO: Mr. Eberhart.

21 MR. EBERHART: No. My take, I am
22 keeping my mind on the fact that we're
23 just talking about the area variance. I
24 do have concerns.

25 CHAIRMAN SCALZO: You're smart

2 enough not to say them like we did.

3 MR. EBERHART: I'm just going to
4 leave it in that box.

5 CHAIRMAN SCALZO: Again, with the
6 21,000 square feet existing and the
7 requirement of 50, that's one of the
8 ones.

9 Ms. Banks.

10 MS. BANKS: Nothing.

11 CHAIRMAN SCALZO: At this time I'm
12 going to open it up to any members of the
13 public that wish to speak about this
14 application. Please step forward.

15 MR. CLAVIN: First of all, thank
16 you for giving me the time to speak.

17 CHAIRMAN SCALZO: The first thing I
18 need out of you, sir, is your name.

19 MR. CLAVIN: Robert Clavin.

20 CHAIRMAN SCALZO: Thank you.

21 MR. CLAVIN: So maybe I'm getting a
22 little confused here about where they're
23 talking about they just need the area
24 variance versus what it's going to be
25 used for. At what point -- if I'm

2 understanding that correctly, we're
3 right back to what is it going to be
4 used for.

5 My concern about that is it's
6 going to -- it seems like there's
7 going to definitely be a second
8 dwelling on a half acre, call it. So
9 you're going to have two residential
10 structures on one half of an acre.
11 Correct?

12 CHAIRMAN SCALZO: Correct.

13 MR. CLAVIN: Right. But the
14 meeting tonight now, and maybe you'll
15 understand some of the confusion, is
16 we're just here for an area variance?

17 CHAIRMAN SCALZO: That is correct.

18 MR. CLAVIN: Right. But then at
19 what point do we visit the point of what
20 it's going to be used for? Is that the
21 Planning Board?

22 CHAIRMAN SCALZO: Well, I suppose
23 if it makes it past us, it does end up
24 back to the Planning Board. You sort of
25 alluded to a point, at least I think you

2 did. We are a precedence setting Board.

3 MR. CLAVIN: Right.

4 CHAIRMAN SCALZO: If we permit this
5 to occur, then we're going to get 25,000
6 square foot lots that need 50,000 square
7 feet that come and ask us for the same.

8 MR. CLAVIN: That's my concern. I
9 get -- I can respect and I can understand
10 they're trying to help family members,
11 but as Mr. Minuta said earlier, it was a
12 karate studio, right. Fast forward, what
13 if they sell? Now we've got two residential
14 -- potentially two residential structures
15 on one half acre.

16 Like we just discussed the word
17 precedent. Now what precedent does that
18 set in that area or in the Town of Newburgh?

19 CHAIRMAN SCALZO: Anywhere in the
20 Town of Newburgh. It becomes a challenge
21 for any applicant to come in and say to
22 us you did it for this guy and now you
23 need to do it for us.

24 MR. CLAVIN: That's why I have the
25 concern.

2 I wish I didn't have to be here. I
3 don't want to be the bad guy. I'd rather
4 have your Board be the bad guy.

5 I have that concern, more so
6 because I have a neighbor that is a
7 single-family resident that made legal
8 rooms and boarded off -- you know,
9 separated the house.

10 Mr. Politi, respectfully, I believe
11 you remember when I stood before the Town
12 Board.

13 MR. POLITI: Yes, I do.

14 MR. CLAVIN: Right. So that's what
15 raises a concern and a flag with me,
16 because I'm around the corner from the
17 said residence we're talking about
18 tonight.

19 On Kentucky, as you go up towards
20 Maine, on a hill -- on a turn rather,
21 people park cars there and you can't see
22 where there's driveways. Then right
23 before you get to the stop sign, within
24 the last year they did a circular
25 driveway feet from the stop sign and a

2 fire hydrant.

3 So now I'm saying okay, maybe not
4 this particular applicant, but what if
5 they sell. Now how many cars are we
6 going to have on the road? How many cars
7 are we going to have -- you can't say to
8 somebody okay, that's your house, you
9 can't move in, right. What if there's
10 eight people? What if there's six
11 people?

12 That kind of is my concern. The
13 big key word is precedent. What precedent
14 are we going to set?

15 Listen, I totally get you want to
16 help family. Maybe other aspects can
17 be looked at. Maybe make an addition
18 to the house and keep it a single family
19 on a half acre.

20 CHAIRMAN SCALZO: Right. There's
21 probably an economic issue here where
22 it's already --

23 MR. CLAVIN: I understand that, but
24 what Pandora's box are we potentially
25 opening in this Town, or even in this

2 development, right?

3 I'm not that familiar with zoning
4 and what you can have on an acre. Is it
5 a half acre minimum in certain areas?
6 How many other people are going to want
7 to do this and when was the last time it
8 was done? I believe you referenced
9 something years and years ago near
10 Lakeside or another street.

11 CHAIRMAN SCALZO: Berry Lane.

12 MR. CLAVIN: Right. How many years
13 ago was that?

14 CHAIRMAN SCALZO: Probably two.

15 MR. CLAVIN: Just two. So does
16 that bring this to that or, you know, is
17 it a half acre?

18 CHAIRMAN SCALZO: That application
19 was denied. It didn't meet the criteria.

20 MR. CLAVIN: Okay. I didn't know
21 that.

22 Again, I hate to be standing here.
23 I wish I didn't have to come here tonight.
24 I don't want to be the bad guy, but I
25 have a lot of concerns about what is

2 that going to do to traffic. Not
3 with this particular applicant, but
4 no one is stopping them from selling
5 it. Once you get the variance --

6 CHAIRMAN SCALZO: Again you're
7 jumping into the economics. That's
8 outside of --

9 MR. CLAVIN: Right. But say it's
10 approved, right, and then there's the
11 precedent part. Once they sell it, it
12 goes with the property, right? It
13 doesn't change? Am I correct in that
14 statement?

15 CHAIRMAN SCALZO: A variance, it
16 travels with the property --

17 MR. DONOVAN: Right.

18 CHAIRMAN SCALZO: -- once it's
19 granted.

20 MR. CLAVIN: If they change that
21 and stop, but it doesn't.

22 CHAIRMAN SCALZO: Which is why once
23 in awhile the Board contemplates
24 conditions on certain permits -- or
25 applications.

2 MR. CLAVIN: I wish other people
3 stood up, but they didn't. It's no
4 disrespect to anybody here or the
5 applicant. It's just I have concerns,
6 not specifically about this specific
7 applicant and why, but moving forward,
8 five years down the road, two years. I
9 don't know if I'm going to be in my house
10 two years down the road. No one knows,
11 you know. Life changes, things change.
12 So that's my concern --

13 CHAIRMAN SCALZO: Right.

14 MR. CLAVIN: -- respectfully before
15 the Board.

16 CHAIRMAN SCALZO: Thank you. We
17 appreciate when the public does participate.
18 It's all a matter of record now. It's
19 being recorded. Thank you for coming out.
20 I appreciate you coming.

21 Do any other members of the public
22 wish to speak about this application?

23 (No response.)

24 CHAIRMAN SCALZO: It does not appear
25 so.

2 All right. I'll look to the
3 Board for a motion to close the public
4 hearing.

5 MR. EBERHART: I'll make a motion
6 to close the public hearing.

7 MS. BANKS: I'll second.

8 CHAIRMAN SCALZO: We have a motion
9 to close from Mr. Eberhart. We have a
10 second from Ms. Banks. All in favor.

11 MS. BANKS: Aye.

12 MR. EBERHART: Aye.

13 MR. HERMANC: Aye.

14 CHAIRMAN SCALZO: Aye.

15 MR. POLITI: Aye.

16 MR. MASTEN: Aye.

17 MS. REIN: Aye.

18 CHAIRMAN SCALZO: Those opposed.

19 (No response.)

20 CHAIRMAN SCALZO: Very good.

21 Any further discussion here
22 regarding this?

23 (No response.)

24 CHAIRMAN SCALZO: Again, we are
25 here talking about the variances

2 requested. This is not about what the
3 use is. This is a 21,246 square foot lot
4 where the required square footage is
5 50,000, so it's less than half.

6 Now, when it comes to substantial,
7 and that's one of Ms. Rein's favorite
8 things to look at, what is considered
9 substantial. Well, when you look by the
10 numbers, you look by the neighborhood,
11 whatever it is.

12 Any other discussion?

13 (No response.)

14 (Phone ringing.)

15 CHAIRMAN SCALZO: When I ask for
16 phones to be turned off, it also applies
17 to the Board Members.

18 MR. EBERHART: It's clearly substantial.

19 MS. REIN: Can I just say something
20 else?

21 CHAIRMAN SCALZO: This is the time.

22 MS. REIN: It's just me. It's just
23 a thought. I realize it's just a variance,
24 but the reason we're looking at this
25 variance is so they can build this house.

2 CHAIRMAN SCALZO: It's already there.

3 MR. MINUTA: No. The reason we're
4 looking for the variance is because if
5 the variances are not approved, you
6 effectively make the lot condemned. It's
7 an existing house. It exists. If you
8 don't grant the variances, you're
9 essentially condemning the lot.

10 MS. REIN: It's not a house. It's
11 a shed.

12 MR. MINUTA: No, no, no. The
13 variances are for the property. This is
14 like any other property that I brought
15 before this Board over my last 25 years.
16 It's an existing nonconformity of the
17 property as it sits now. It has nothing
18 to do with the use.

19 Again, the attorney for the
20 Planning Board sent this here for three
21 specific reasons, and those are all area
22 variances, the lot, the setback for the
23 rear and the lot width.

24 Now the lot width is not necessarily
25 required if it's got water and sewer.

2 However, let's say the project
3 doesn't go forward. Now my clients end
4 up with a nonconformity on that one item.

5 So again, we're here to bring this
6 lot into compliance as it exists now.
7 Everything that you're asking about and
8 everything the public is asking about is
9 dealt with at the Planning Board.

10 CHAIRMAN SCALZO: Let me reiterate
11 what I think you just said. We would be
12 doing this lot to no further development
13 should we deny this application?

14 MR. MINUTA: They couldn't even
15 sell the house at that point. You have
16 an existing nonconforming --

17 CHAIRMAN SCALZO: They have COs for
18 the dwelling and for the shed. It could
19 continue as it is.

20 MR. MINUTA: Then why are we here?
21 If it exists --

22 CHAIRMAN SCALZO: Because you're
23 asking for a 30,000 square foot variance.
24 That's why we're here really.

25 MR. MINUTA: Let me ask you this

2 question, if you don't mind. If we were
3 to take this dwelling here and attach it
4 to the house, we would still be here for
5 the same reason. The area variance is
6 still the same.

7 CHAIRMAN SCALZO: No, no. Not
8 necessarily.

9 MR. MINUTA: The property is -- it
10 is still the same. The property requires
11 -- the property requires 50,000 square
12 feet, period. That's the new zoning
13 code. It met the code at the time when
14 it was constructed.

15 CHAIRMAN SCALZO: Sure.

16 MR. MINUTA: The zoning code changed.
17 At this point, regardless of whether this
18 project is done or not, this lot does not
19 comply. So the reason we're here for
20 area variances is to make this lot comply.
21 That's the only reason. We can look at
22 every single project ever brought before
23 this Board on the same topic. It's
24 the same subject.

25 MR. DONOVAN: The variance, though,

2 would be to allow the second dwelling.
3 If you denied the variance, they still
4 get to have the existing dwelling and the
5 accessory building.

6 MS. REIN: Why go for a variance if
7 you're not going to use it for something?
8 Obviously you are.

9 MR. MINUTA: The point of the matter
10 is we go back to the Planning Board for
11 them to determine what can be used or
12 what can't be used, along with the
13 Building Department who put us on this
14 path in the first place.

15 MS. REIN: That's what I said before.

16 MR. MINUTA: Right. Again, we're
17 looking at area variances only. We're
18 muddying the waters tonight by what it's
19 going to be used for. That is squarely
20 the authority having jurisdiction as the
21 Planning Board.

22 MS. REIN: My title isn't architect,
23 it's doctor, so I apologize for that.

24 MR. MINUTA: We're all here to
25 learn something tonight, including

2 myself.

3 CHAIRMAN SCALZO: If they were to
4 put anything -- if they were to enlarge
5 the size of the deck, they'd be here.
6 Actually, they wouldn't. I don't know
7 that they would. If you were to enlarge
8 the size of the deck, that has nothing to
9 do with a second dwelling on the lot.

10 MR. MINUTA: Well, any improvement
11 that you would do to the property, any
12 improvement --

13 CHAIRMAN SCALZO: Because you don't
14 meet the lot width for --

15 MR. MINUTA: Any of these items
16 because of that.

17 CHAIRMAN SCALZO: Sure.

18 MR. MINUTA: Regardless of why
19 we're here tonight, the lot is existing
20 nonconforming and we're trying to bring
21 those nonconformities into compliance.

22 MR. DONOVAN: If I can, my
23 suggestion is you go through the five
24 factors, because that's what's supposed
25 to guide you in making a determination,

2 and you can decide if granting these
3 variances -- let's assume there's only
4 two, right, because the Planning Board
5 attorney has indicated you need a certain
6 lot width which is not required, there's
7 municipal water. You're saying there is
8 municipal water?

9 CHAIRMAN SCALZO: Municipal sewer
10 is available.

11 MR. MINUTA: Water and sewer is
12 available. Here's the thing. They're
13 not connected to both currently. That's
14 where we get into a little bit of a --

15 MR. DONNELLY: Then you do need the
16 three variances.

17 You should go through, when you're
18 ready, the five-part balancing test.
19 Understand that if you grant the
20 variance, there's a second dwelling.
21 That's when you want to know if it's
22 substantial.

23 MS. REIN: It is.

24 MR. DONOVAN: I'm not suggesting.
25 You need to bear that in mind is all I'm

2 saying.

3 MR. MINUTA: Mr. Donovan, the
4 variance is not for the second dwelling.
5 It has nothing to do with the second
6 dwelling. It's simply existing
7 nonconformities of the lot.

8 MR. DONOVAN: Joe, I'm not going to
9 debate it with you. If you don't get the
10 variance, you can't have the second
11 dwelling. If you get the variance, you
12 can have it. You can't really tell me it
13 has nothing to do with it.

14 MR. MINUTA: However, no matter
15 what is done with the property, we end up
16 back here because of the existing
17 nonconformities. No matter what is done.

18 MR. HERMANCE: It's already approved.

19 MR. MINUTA: What's that?

20 MR. HERMANCE: The accessory
21 structure, it's already approved.

22 MR. MINUTA: Yes. A certificate of
23 compliance.

24 However, here's the situation.
25 Regardless of that, they still have

2 aging parents that they have to care
3 for. Something needs to be done on
4 this. The zone permits it.

5 Listen, we didn't want to come
6 forth with this as the way through.
7 The fact of the matter is you have
8 existing items here, which, again, to
9 not utilize them would be a hardship
10 upon the applicant. It's also a
11 hardship because they didn't cause
12 any of these things that occurred on
13 the property. It's because the
14 zoning code changed.

15 I was just here last month for
16 that. We did that with the other
17 project that I represented.

18 So at the end of the day, they're
19 simple area variances that exist.

20 We had a front yard variance on
21 the last property that I represented.

22 Again, these are existing
23 nonconformities.

24 CHAIRMAN SCALZO: I'll also remind
25 the Board that we have 62 days to make a

2 determination on this. I don't know
3 what else we'd want to hear or dig
4 into.

5 MR. DONOVAN: The public hearing
6 is closed. You can just think about
7 it. It's up to you. If you're ready
8 to act, you're ready to act. If you're
9 not, you're not.

10 CHAIRMAN SCALZO: Right. We can
11 still go through our factors here, and
12 then when we get to the end I guess is
13 where the rubber meets the road as they
14 say.

15 We're going to go ahead and go
16 through the area variance criteria, the
17 five factors we're weighing, the first
18 one being whether or not the benefit can
19 be achieved by other means feasible to
20 the applicant.

21 I suppose it could if they put a
22 mother/daughter inside the house.
23 However, they have an accessory building
24 right now that they would like to utilize.
25 I'm not sure if I answered that in the

2 affirmative or negative, other means
3 feasible.

4 MS. REIN: There are other means
5 feasible. Whether or not they do that is
6 up to them.

7 CHAIRMAN SCALZO: I'll also remind
8 the Board that this is not a scorecard.
9 We don't have to -- three out of five
10 doesn't make it a winner. Two out of
11 five doesn't make it a loser. We're just
12 going to go ahead.

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

16 Well, when you talk about the
17 neighborhood character, I don't know
18 that there are any other lots in that
19 development that have two dwellings
20 on a lot.

21 MR. MASTEN: No.

22 CHAIRMAN SCALZO: I can ask the
23 applicant. Mr. Minuta, any idea if there
24 are any other lots in that development
25 that have two standalone dwellings?

2 MR. MINUTA: To my knowledge there
3 are not. But then again, why create a
4 zone that allows it?

5 CHAIRMAN SCALZO: Okay. Thank you
6 for your input.

7 So that is subjective, undesirable
8 change in the neighborhood character,
9 detriment to nearby properties. Like I
10 say, there's certainly a change in the
11 character if this were to proceed.

12 The third, whether the request is
13 substantial.

14 The Board has heard me say, you
15 know, they have 21,000 square feet and
16 they need 50,000 square feet to meet the
17 criteria for the second dwelling.

18 MS. REIN: That's substantial.

19 CHAIRMAN SCALZO: That's substantial.

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

23 That one I would say no, just
24 because it doesn't appear you're going
25 to be increasing any impervious surfaces.

2 I would say no.

3 The fifth -- are you guys good?

4 MR. EBERHART: I'm sorry.

5 MS. BANKS: So I'm asking questions
6 because I'm a little confused.

7 CHAIRMAN SCALZO: This is the forum
8 to do it.

9 MS. BANKS: Okay. So I want to
10 make sure I understand this. We had a
11 piece of property at one point that was
12 in code, like in compliance, in zoning
13 compliance in terms of like variances?

14 MR. MINUTA: When it was first
15 constructed.

16 MS. BANKS: When it was first
17 constructed. And then the zoning code
18 changed?

19 CHAIRMAN SCALZO: Correct.

20 MS. BANKS: And so then it fell out
21 of compliance?

22 MR. MINUTA: Not at -- yes. My
23 clients did not cause that.

24 MS. BANKS: Okay. So now you need
25 a variance on the lot?

2 MR. MINUTA: The area of the lot
3 because it's an existing nonconformity.
4 We are not increasing the degree of that.

5 MS. BANKS: Okay. Okay. So I keep
6 hearing -- but we're not talking about
7 the second residence, or whatever this
8 thing is that we're doing, whatever you
9 may potentially --

10 CHAIRMAN SCALZO: We're talking
11 about linear things. Linear dimensional
12 things.

13 MS. BANKS: All right. I just
14 wanted to make sure I understood. I
15 remember something similar, like a
16 grandfathering issue, when I joined the
17 Zoning Board. I just want to make --

18 CHAIRMAN SCALZO: Grandfathering --

19 MS. BANKS: It was a very similar
20 situation.

21 MR. EBERHART: Are we talking about
22 the accessory building or are we talking
23 about the lot?

24 MS. BANKS: We're just talking
25 about the variance for the lot?

2 MR. DONOVAN: You're talking about
3 the accessory dwelling to the extent that
4 if there was no change in the use of the
5 accessory dwelling, this application
6 would not be here.

7 MS. BANKS: We're not really
8 talking about use right now. That's
9 Planning. We're just talking about the
10 piece of property?

11 CHAIRMAN SCALZO: That's correct.

12 MS. BANKS: Okay. I wanted to make
13 sure I was clear.

14 MR. MINUTA: With respect to the
15 use, that's not at all why we're here.

16 MS. BANKS: I know that. That's
17 what I just said. I'm agreeing with you.

18 MR. MINUTA: Thank you. I wanted
19 to be clear.

20 MS. REIN: Also Latwan, if it is
21 approved and the second dwelling goes up,
22 that also sets a precedent for that
23 neighborhood.

24 MR. EBERHART: We don't know that.

25 MR. DONOVAN: Let me just go back

2 to the referral letter. "The applicant
3 seeks approval to use an existing
4 accessory structure on the property as a
5 second residence which requires approval
6 as a two-family dwelling. The required
7 variances are as follows."

8 Joe, if you weren't taking that
9 accessory building and making it into a
10 residence, you wouldn't be here. Correct?

11 MR. MINUTA: No. The only reason
12 we're here is because of Dominic Cordisco's
13 letter of May 21st.

14 MR. DONOVAN: I'm sure the Planning
15 Board voted to refer it.

16 If you weren't putting a second
17 residence there, a two family, you would
18 be home watching -- well, it's not on
19 until 10 o'clock -- USA versus Turkey
20 which somehow became Turkiye.

21 MR. MINUTA: Go USA.

22 So again, I really want to get away
23 from the whole object where, yes, if we
24 were here for a use variance, I absolutely
25 would agree. We are not here for a use

2 variance.

3 MR. DONOVAN: You're definitely not
4 here for a use variance.

5 MR. MINUTA: As long as we're all
6 clear on that.

7 MR. DONOVAN: I don't think the
8 Board can put on blinders and not
9 understand that these variances are being
10 required because of the change in use.

11 MS. BANKS: But --

12 MR. MINUTA: No. I disagree, and
13 here's why. I disagree with that because
14 no matter what the applicant does with
15 the property, whether it is this or
16 something else, the Building Department
17 is going to kick it back and say you have
18 existing nonconformities and have to go
19 to the Zoning Board to clear them up,
20 which we do on all kinds of projects.

21 CHAIRMAN SCALZO: Correct, but
22 would we be asking, as the applicant, for
23 a 50,000 square foot --

24 MR. MINUTA: Absolutely. We've
25 done it tons of times.

2 CHAIRMAN SCALZO: No, no, no. What
3 I'm saying is if you come in here for any
4 other reason, that 50,000 square foot
5 requirement isn't there.

6 MR. MINUTA: Why is that?

7 CHAIRMAN SCALZO: Because in this
8 instance, if you were looking --

9 MR. MINUTA: That's the zoning.

10 CHAIRMAN SCALZO: -- to expand the
11 deck --

12 MR. MINUTA: That's the zoning.

13 CHAIRMAN SCALZO: For the two family.

14 MR. DONOVAN: For a single-family
15 dwelling. Not to exceed one dwelling is
16 40,000 square feet. It's 100,000 if you
17 didn't have water and sewer for a two
18 family. It's 50,000 with water and
19 sewer. So it's not the same.

20 CHAIRMAN SCALZO: It's 10,000
21 square feet different, and then --

22 MR. DONOVAN: You did that in your
23 head? That was good.

24 MR. MINUTA: Thank you for the
25 clarification.

2 CHAIRMAN SCALZO: And then, Latwan,
3 to your point, zoning does change.
4 Homeownership changes. When you purchase
5 a home, you are charged with the knowledge
6 of what the zone allows you to do when you
7 buy the house. So a new owner should be
8 fully aware of what their property can
9 do for them.

10 MS. BANKS: Correct. As it relates
11 to use. We're not talking about use,
12 we're just talking about the lot.

13 CHAIRMAN SCALZO: In this instance
14 we are.

15 MR. DONOVAN: It's not a use variance.

16 CHAIRMAN SCALZO: If they bought a
17 house that's in R-3, 50,000 square feet
18 if they had it, 40,000 without, they
19 would still be here for something, but
20 they are charged with the knowledge of
21 what their property can do. So when you
22 talk about grandfathering, that really
23 doesn't apply here.

24 MS. BANKS: Well, I'm not really
25 talking about grandfathering as it

2 relates to use. I'm talking about
3 grandfathering in terms of like the
4 variance. At one point I think you said
5 there was 30,000 square feet, or something
6 like that, and then it changed to 50,000.
7 It sounds like the zone changed, which
8 makes --

9 CHAIRMAN SCALZO: It became more
10 restrictive. Sure.

11 MS. BANKS: But it's not related to
12 use, it's just related to the lot size.
13 Correct? I just want to make sure I
14 understand. I keep getting confused with
15 the use versus the lot variance request.

16 MR. MINUTA: If I may, Mr. Chairman.
17 That's why the discussion of use makes it
18 a different thought process, because,
19 again, it's area.

20 MS. BANKS: It's like an area
21 variance versus use, so they're kind of
22 separate.

23 CHAIRMAN SCALZO: They are completely
24 separate.

25 MR. MINUTA: Very, very separate.

2 MS. BANKS: I only know this
3 because I got slapped on the hand a
4 couple of times here.

5 CHAIRMAN SCALZO: Ms. Banks, if you
6 ask me how many use variances we've
7 approved since I've been on the Board, it
8 can be counted on one hand, perhaps one
9 finger. It's a tough hill to climb.

10 Anyway --

11 MS. REIN: You know, they're separate,
12 Latwan. They're definitely separate, but
13 there is a sort of symbiotic relationship
14 with it.

15 MS. BANKS: Understood.

16 So we could -- this is hypothetical.
17 We haven't finished the five factors.
18 We could approve the variance in theory
19 with conditions. Yes or no?

20 CHAIRMAN SCALZO: We've done that
21 plenty.

22 MS. BANKS: Okay.

23 MR. DONOVAN: The condition needs
24 to be reasonably related to some
25 legitimate objective. It can't be we

2 approve the variance only if Joe Minuta
3 is the architect.

4 MS. BANKS: Why would we do that?

5 MR. DONOVAN: So I don't know what
6 condition -- you can approve it with
7 conditions.

8 MS. BANKS: I'm asking that
9 question just to help us kind of like
10 separate use versus variance because I
11 keep hearing those things conflated in
12 the conversation.

13 I know a couple of meetings ago we
14 approved -- I can't remember the
15 specifics, but we approved a variance
16 with some sort of condition.

17 Although this has to go back to the
18 Planning Board, a possibility could be to
19 approve the variance -- the area variance
20 with conditions.

21 CHAIRMAN SCALZO: Let's get through
22 the five and if you have some conditions
23 that you want to incorporate into
24 whatever the determination of the Board
25 is, we'll hear them then.

2 M S . B A N K S : O k a y .

3 C H A I R M A N S C A L Z O : S o w e h a d a l r e a d y
4 g o n e o v e r i f t h e r e q u e s t i s s u b s t a n t i a l .

5 T h e f o u r t h , w h e t h e r t h e r e q u e s t
6 w i l l h a v e a d v e r s e p h y s i c a l o r e n v i r o n m e n t a l
7 e f f e c t s . I d i d n o t t h i n k s o .

8 M R . E B E R H A R T : N o .

9 C H A I R M A N S C A L Z O : N o b o d y d i s a g r e e d
10 w i t h m e .

11 T h e f i f t h , w h e t h e r t h e a l l e g e d
12 d i f f i c u l t y i s s e l f - c r e a t e d , w h i c h
13 o b v i o u s l y i t i s .

14 I f t h e B o a r d a p p r o v e s , i t s h a l l
15 g r a n t t h e m i n i m u m v a r i a n c e n e c e s s a r y a n d
16 m a y i m p o s e r e a s o n a b l e c o n d i t i o n s .

17 H a v i n g g o n e t h r o u g h t h e b a l a n c i n g
18 t e s t s o f t h e a r e a v a r i a n c e , d o e s t h e
19 B o a r d h a v e a m o t i o n o f s o m e s o r t ?

20 M R . E B E R H A R T : I ' l l m a k e a m o t i o n
21 t o a p p r o v e t h e a r e a v a r i a n c e .

22 M S . B A N K S : I ' l l s e c o n d .

23 C H A I R M A N S C A L Z O : W e h a v e a m o t i o n
24 f o r a p p r o v a l f r o m M r . E b e r h a r t . W e h a v e
25 a s e c o n d f r o m M s . B a n k s .

2 Do you want to roll to that, Siobhan.

3 MS. JABLESNIK: Ms. Banks.

4 MS. BANKS: Yes.

5 MS. JABLESNIK: Mr. Eberhart.

6 MR. EBERHART: Yes.

7 MS. JABLESNIK: Mr. Hermance.

8 MR. HERMANC: No.

9 MS. JABLESNIK: Mr. Masten.

10 MR. MASTEN: Yes.

11 MS. JABLESNIK: Mr. Politi.

12 MR. POLITI: No.

13 MS. JABLESNIK: Ms. Rein.

14 MS. REIN: No.

15 MS. JABLESNIK: Mr. Scalzo.

16 CHAIRMAN SCALZO: No.

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17             What do we got there?  What's the
18             count?
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19 MR. DONOVAN: Four-three. The
20 motion fails.

21 CHAIRMAN SCALZO: The motion fails.

22 Okay. Mr. Minuta, that's four-three.

23 The motion is denied.

24 MR. MINUTA: The motion that was
25 made was only for the variance for the

2 lot area.

3 MR. DONOVAN: It was for the whole
4 application.

5 CHAIRMAN SCALZO: We didn't separate
6 them.

7 MR. MINUTA: Fair enough. Thank
8 you very much.

9 CHAIRMAN SCALZO: Thank you.

10

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

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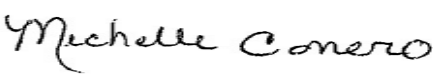
C E R T I F I C A T I O N

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 30th day of June 2026.



MICHELLE CONERO

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

N&N UNION, LLC
38 Orr Avenue, Newburgh
Section 96; Block 1; Lot 6.22
IB Zone

----- X

Date: June 25, 2026
Time: 7:48 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANC
JOHN MASTEN
JAMES POLITI
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: KELLY LIBOLT

----- X

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

2 CHAIRMAN SCALZO: Our next
3 application is N&N Union, LLC, 38 Orr
4 Avenue for area variances to allow two
5 wall-mounted signs higher than the first
6 floor and one of the two signs located
7 on the rear of the building.

8 Do we have mailings on this, Siobhan?

9 MS. JABLESNIK: This applicant sent
10 21 letters.

11 CHAIRMAN SCALZO: Is there a GML-239
12 in place for this? Is it required?

13 MS. JABLESNIK: Yes, and they have
14 timed out. I haven't received anything
15 back.

16 CHAIRMAN SCALZO: Very good.

17 Who do we have with us?

18 MS. LIBOLT: Good evening. I'm
19 Kelly Libolt with KARC Planning
20 Consultants representing the applicant.

21 As you indicated, Mr. Chairman, we
22 are here seeking three area variances for
23 two signs.

24 This is the location which is
25 considered The Shoppes. This is the area

2 behind Cosimo's on 300. Hopefully
3 everyone knows where this is.

4 The access to this parcel is
5 actually from Orr Avenue. The address
6 for this is Orr Avenue, which is
7 interesting because that creates the
8 front yard for this building.

9 Many of you I think were on the
10 Zoning Board when we were here before.
11 There were some area variances that we
12 had sought for this particular project.

13 I can go into detail about the
14 project if you need me to, but I'm going
15 to just focus on the variances that are
16 in front of you.

17 This project is actively under
18 construction. It consists of the garage-
19 style self-storage units, which are just
20 the single-story garage doors, and then a
21 three-story, temperature-controlled self-
22 storage facility. That building is the
23 subject of the area variances. That is
24 this building that is gray on the plan.
25 This is Route 300 on the bottom. This

2 corner is Cosimo's. This is Orr Avenue.

3 Again, the access from this
4 building is from Orr Avenue, so this
5 side of the building is the front. We
6 had provided you with some elevations
7 in the application.

8 The focus of the two area variances
9 are this corner of the building. This is
10 the east elevation, which is the side that
11 you would see if you're traveling on
12 Route 300. This other side is the north
13 elevation. If you were in the Lowe's
14 parking lot, which is over here, you
15 would see this side of the building.
16 Our signs are focusing on those two
17 corners of the building.

18 What we're asking for, as you had
19 said, Mr. Chairman, is both of those
20 signs, we're asking to place them above
21 the first floor. These would be on the
22 top of the building. Your code restricts
23 signage in this district as limited
24 to above the first floor.

25 The second area variance that we're

2 asking for is this particular sign
3 that faces Lowe's is considered
4 the rear of the building. In this
5 particular district signs are not
6 permitted in the rear of the building.
7 Again, because the address for this
8 property is Orr Avenue, that becomes
9 the back side.

10 The two signs that we're proposing
11 are 94.2 square feet, for purposes I'll
12 just say 94 square feet, where 150 square
13 feet is permitted. So they're smaller
14 than the maximum signs that are permitted.
15 We're cognizant of not over-designing
16 the signs. They fit nicely in the area
17 on the building.

18 This is Extra Space Storage. I'm
19 sure many of you have driven around
20 communities and seen Extra Space Storage.

21 The building is set back quite a
22 bit from 300. I don't need to speak
23 to you, I know you live here and you
24 know this area. There are some
25 buildings in the front.

2 There's quite a bit of vegetation
3 that's going to be maintained in the
4 front of this building. That was
5 required as part of the Planning Board
6 approval.

7 We're asking to put the signs
8 there mostly for visibility, because
9 this is a tough location as far as
10 the signage.

11 I'm happy to answer questions.
12 I can give you some more information
13 if you'd like.

14 MS. REIN: Is there any illumination?

15 MS. LIBOLT: These would be backlit.

16 CHAIRMAN SCALZO: That's wonderful.
17 Wonderful examples.

18 MS. LIBOLT: Thank you. Amy did a
19 great job. She does a fantastic job.

20 What you're speaking to I think is
21 the other examples of other signs in the
22 area that we felt were precedent and
23 taller.

24 CHAIRMAN SCALZO: Precedent, great
25 word. When you establish a precedent,

2 it's very difficult to deny something
3 against the precedent that's been set.

4 I have no questions really. For me
5 this is pretty simple.

6 I'm going to start down at the
7 other end of the table. Ms. Banks.

8 MS. BANKS: No questions.

9 CHAIRMAN SCALZO: Mr. Eberhart.

10 MR. EBERHART: No questions.

11 CHAIRMAN SCALZO: Mr. Hermance.

12 MR. HERMANCE: The illumination, is
13 it all through the night or is there a
14 limit on the --

15 MS. LIBOLT: There isn't a limit.
16 There isn't a limit that was required.
17 They're backlit.

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

20 CHAIRMAN SCALZO: Mr. Politi.

21 MR. POLITI: I'm good.

22 CHAIRMAN SCALZO: Mr. Masten.

23 MR. MASTEN: Yes. Now, where in
24 reference are these signs going to be on
25 the building?

2 MS. LIBOLT: Where are they going
3 to be?

4 MR. MASTEN: Yes. Right now
5 there's an existing building in the front
6 of that complex. Is that building coming
7 down?

8 MS. LIBOLT: That building must be
9 on other property.

10 MR. MASTEN: I know. When I was
11 over there you couldn't access it because
12 there was too much equipment in the way.

13 MS. LIBOLT: I'm sorry. You were
14 trying to get to the site?

15 MR. MASTEN: Yes.

16 MS. LIBOLT: Okay.

17 MR. MASTEN: There was a lot of
18 equipment around there. You couldn't
19 even walk over there. I was afraid to.

20 MS. LIBOLT: So this project is
21 actively under construction right now.

22 MR. MASTEN: I know it is. You had
23 bulldozers, cranes and everything in the
24 way. I couldn't see where they're going
25 to put a building up, where they're going

2 to put the signs.

3 MS. LIBOLT: I apologize. I could
4 have coordinated that with you.

5 MR. MASTEN: I was there on the
6 18th of this month.

7 MS. LIBOLT: I apologize. I could
8 have gotten you through the site.
9 Because it's actively under construction,
10 there's a gate at the end --

11 MR. MASTEN: One of the contractors
12 said to me what are you doing here. I
13 said I'm here to check the site. He says
14 who are you, and I said I'm from the
15 Zoning Board. He goes oh, and he walked
16 away. I don't know who he was.

17 MS. LIBOLT: I apologize for that,
18 sir. I could have coordinated site
19 access. Because it's under construction,
20 we just have to keep the site protected.

21 MR. MASTEN: All he had to do was
22 ask for my ID. I've got an ID for the
23 Zoning Board.

24 CHAIRMAN SCALZO: Mr. Masten, any
25 more comments related to the application?

2 MR. MASTEN: Not right now.

3 CHAIRMAN SCALZO: Ms. Rein.

4 MS. REIN: I'm good. Thank you.

5 CHAIRMAN SCALZO: Any comments or
6 questions from the public regarding this
7 application? Please step forward and
8 state your name.

9 MR. BOWSER: My name is John
10 Bowser. I live in the Town of Newburgh.
11 I'm in the back.

12 This is pointing toward you guys.
13 I can't have a good visual on it.

14 CHAIRMAN SCALZO: Again, all of the
15 information that was supplied in the
16 package is also online.

17 MR. BOWSER: Perfect.

18 CHAIRMAN SCALZO: It's available to
19 the public prior to the meeting.

20 MR. BOWSER: Right. So I've lived
21 in the neighborhood for a long time.
22 I've seen these storage facilities go up
23 all over the place. You know, I guess
24 they're here just for signage.

25 CHAIRMAN SCALZO: Correct.

2 MR. BOWSER: I do think that the
3 neighborhood has changed a lot with these
4 warehouses, storage facilities dominating
5 a lot of our Town. I just feel that if
6 they're going to put these big signs up,
7 it's just going to make it worse.

8 I live down that road. If you go
9 down that road --

10 CHAIRMAN SCALZO: I don't want to
11 call you a frequent flyer. You're off
12 D'Alfonso. Correct?

13 MR. BOWSER: Yeah. I pass by there
14 all the time, you know. These are the
15 changes that I've seen over the years,
16 and I'm not very happy with that.

17 I just had to say how I felt.
18 That's all.

19 CHAIRMAN SCALZO: I said to the
20 gentleman before, without the public's
21 input, you know, the meetings would go
22 very different. Your comments are very
23 important to us, so thank you for coming
24 and taking your time.

25 MR. BOWSER: You know, I can

2 understand as a business perspective why
3 she would want the signs and all of that,
4 but you have to look at the perspective
5 also as a community as a whole. You
6 know, these storage facilities have gone
7 up all over the place in the Town.

8 CHAIRMAN SCALZO: Right. I
9 understand. Warehouses and storage
10 facilities are something that's a hot
11 button item with many.

12 If you heard the applicant's
13 representative indicate, the signs that
14 they are installing are actually smaller
15 than what they are allowed to put up.
16 All they're asking for is to put them
17 higher on the building.

18 MR. BOWSER: Yeah. There's a lot
19 of signage that's going up higher than
20 the buildings around here. That's part
21 of my concern, is how the landscape of
22 the Town is turning out. That's my
23 opinion.

24 CHAIRMAN SCALZO: I'm a lifer here.
25 Born here. One of the photos in the

2 application package was the -- if you've
3 been here long enough, you'd call it the
4 Fleet Bank building. I remember when
5 that was Union Grove School. I've seen
6 it, too. The population growth is
7 exponential. People have to live places
8 and store stuff because they've got
9 stuff.

10 MR. BOWSER: I understand. Thank
11 you.

12 CHAIRMAN SCALZO: Thank you.

13 Are there any other members of the
14 public that wish to speak about this
15 application?

16 (No response.)

17 CHAIRMAN SCALZO: No.

18 Okay. I'll look to the Board for a
19 motion to close the public hearing.

20 MR. POLITI: I'll make the motion.

21 MS. REIN: I'll second.

22 CHAIRMAN SCALZO: We have a motion
23 from Mr. Politi. We have a second from
24 Ms. Rein. All in favor.

25 MS. BANKS: Aye.

2 MR. EBERHART: Aye.

3 MR. HERMANCE: Aye.

4 CHAIRMAN SCALZO: Aye.

5 MR. POLITI: Aye.

6 MR. MASTEN: Aye.

7 MS. REIN: Aye.

8 CHAIRMAN SCALZO: Those opposed.

9 (No response.)

10 MR. DONOVAN: It is a Type 2.

11 CHAIRMAN SCALZO: Here we go. I'm
12 going to go through the five factors, the
13 first one being whether or not the
14 benefit can be achieved by other means
15 feasible to the applicant. I would say
16 in this instance, no.

17 Second, if there's an undesirable
18 change in the neighborhood character or a
19 detriment to nearby properties. The
20 building has been approved. This is all
21 about the signs, which are, as the
22 applicant mentioned, smaller than what
23 they could be.

24 Third, whether the request is
25 substantial. Elevation wise, when you

2 look at the package and the others, the
3 other facilities that they gave us match
4 what they're looking to do.

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

8 Fifth, whether the alleged
9 difficulty is self-created, which of
10 course it is because the code is what the
11 code is. They are here seeking relief
12 from that.

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

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

18 MR. EBERHART: I'll second it.

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

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

24 MS. JABLESNIK: Ms. Banks.

25 MS. BANKS: Yes.

2 MS. JABLESNIK: Mr. Eberhart.

3 MR. EBERHART: Yes.

4 MS. JABLESNIK: Mr. Hermance.

5 MR. HERMANCE: Yes.

6 MS. JABLESNIK: Mr. Masten.

7 MR. MASTEN: Yes.

8 MS. JABLESNIK: Mr. Politi.

9 MR. POLITI: 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.

16 MS. LIBOLT: Thank you very much,
17 everyone. Have a nice evening.

18

19 (Time noted: 8:00 p.m.)

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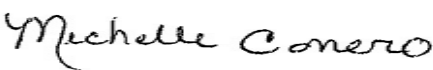
C E R T I F I C A T I O N

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 30th day of June 2026.



MICHELLE CONERO

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

NICK & JENNIFER DiLEMME
DiLEMME & SONS, INC.

2201 Route 300, Wallkill
Section 3; Block 1; Lot 91.2
AR Zone

----- X

Date: June 25, 2026
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: TAYLOR PALMER

----- X

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

2 CHAIRMAN SCALZO: The next order of
3 business was held open from the April
4 23rd meeting, which was held open from
5 the February meeting, which was held open
6 from the January meeting. We are talking
7 about applicant Nick and Jennifer DiLemme,
8 DiLemme & Sons, Inc., 2201 Route 300 in
9 Wallkill, interpretation and/or variances
10 for an application to the Zoning Board of
11 Appeals appealing from the determination
12 of the Code Compliance supervisor and
13 seeking a determination from the Board
14 that DiLemme & Sons, Inc.'s use of
15 improvements at the project location may
16 be continued as a legal nonconforming
17 commercial use. In the alternative, the
18 applicants are requesting area variances
19 and/or a use variance to permit the same.

20 It's been awhile, so if you could
21 give us your Reader's Digest version.

22 MR. PALMER: Absolutely.

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

25 MR. PALMER: Yes.

2 CHAIRMAN SCALZO: Be prepared to
3 receive comments. I'm sure we have a lot.

4 MR. PALMER: Good evening, Mr. Chairman,
5 Members of the Zoning Board. For the record,
6 my name is Taylor Palmer with the law firm
7 of Cuddy & Feder on behalf of the applicant.

8 For the record, I think this is the
9 first time we're not here with you for a
10 Knicks game.

11 With me tonight is Nick DiLemme who
12 is the property owner. He's prepared to
13 provide you with any additional details
14 about the company's property and the
15 historical use of the property.

16 As the Chairman mentioned, I'll try
17 to give you a brief synopsis of the
18 application which has evolved quite
19 significantly to where we are today,
20 I think with some help of the Zoning
21 Board, which I'll get to.

22 As you may recall, as the Chairman
23 mentioned, we are before you in
24 connection with our application. We
25 are proceeding based on the receipt

2 of certain FOIL information that we
3 got, which is an appeal from the
4 determination of the Code Compliance
5 supervisor. The second, for an area
6 variance to permit the company's
7 employees and vehicles to remain on
8 the property. I'll go through the
9 specifics of those.

10 We did provide some detailed
11 background about the property on the
12 prior occasions, which we also have the
13 benefit of new Members on the Board. For
14 the original presentation there wasn't
15 the full complement of the Board. We're
16 trying to --

17 CHAIRMAN SCALZO: You have everything
18 you could possibly need to stand here and
19 represent this project adequately.

20 MR. PALMER: We have a full complement
21 with us tonight, new and old Board Members
22 alike.

23 To briefly reorient the Board, we are
24 here in connection with a property that's
25 a 1.2 acre parcel with driveway access

2 onto both Route 300 and Strawridge
3 Road. The property is improved today
4 with a single-family residence, primary
5 driveway access to 300 and then a
6 backyard and a detached garage and
7 workshop, gravel parking area, driveway
8 access to Strawridge Road. The rear
9 of the property is also enclosed by a
10 fence that provides screening of that
11 area.

12 The home occupation that's a part
13 of this application and has existed on
14 the property for the last forty years
15 is limited to the basement office within
16 that actual residence which consists of
17 about 580 square feet of the finished
18 office space. That's per the assessor's
19 card that was submitted with our
20 application.

21 There's the parking of company
22 employee vehicles, as well as vehicles on
23 the gravel parking area, and then the
24 garage for the residence and two garage
25 bays which constitute the workshop.

2 DiLemme & Sons' primary work,
3 which is masonry and concrete finishing,
4 is not done on the property but rather
5 at offsite job sites. The company's
6 use of the property is primarily
7 limited to, for the home occupation,
8 the administrative work in the
9 basement office and then the parking
10 of the company employee vehicles.

11 To set the stage for tonight's
12 discussion, the applicant's ability
13 to assess the accuracy of the
14 determination that was originally
15 made by the code enforcement officer
16 was slowed a bit from the non-
17 production of the FOIL documents.
18 Thank you, Mr. Chairman, for the
19 pressing of the Town. We did receive
20 those materials. We actually first
21 requested those in September of '25.
22 We have since received those. We got
23 those on May 18th.

24 As the public hearing is still
25 open, I would like to thank the more

1 than thirty neighbors that have
2
3 supported the applicant, who appeared
4 before you or submitted letters,
5 correspondence in support of the
6 application.

7 Turning back to the application
8 which really has two components. First,
9 as we detailed in our June 11th, our
10 most recent submission, the applicant
11 is requesting that the Board determine
12 that certain aspects of the company's
13 use of the property are legally
14 permitted to continue because they were
15 either expressly permitted accessory
16 uses or not clearly probative under
17 the historical zoning code. Today
18 we're specifically referring to the
19 197 -- Local Law 4 of 1974 which was
20 amended through December 15th of 1990.
21 We're calling that the 1980 code
22 relative to when the application or
23 when the uses started on the property.

24 Secondly, the applicants are
25 looking for two area variances from

2 this Board so that the company can
3 continue to use the property in a
4 reduced capacity compared to the
5 existing conditions while it works to
6 relocate to its future home, still in
7 the Town, over at New Road.

8 For the benefit of new and old
9 Members alike on the Board, the
10 applicants have continued to make
11 progress on their application and
12 efforts to relocate the majority of
13 the company's vehicles and equipment
14 to their New Road property in the Town
15 of Newburgh. The applicants do own
16 another property that's classified in
17 your B Zoning District which permits
18 these commercial operations such as
19 the company's. The applicants previously
20 received site plan approval for that site
21 back in 2008. The great recession
22 prevented the applicants from moving
23 forward, so now they're back before your
24 Planning Board and working through the
25 engineers and the DEC who lost their

2 own litigation. They're actively
3 pursuing the application with the
4 Planning Board for site plan approval.

5 So turning back to the area
6 variances that are before you. The
7 request is to allow two nonresident
8 company employees to occupy the basement
9 office. This is new or changed from
10 where we were. We talked about non-
11 conformities. We had talked about --
12 we were relying on the ether of zoning
13 that we didn't know yet existed. We're
14 applying now what existed at the time
15 this operation was initiated at the
16 site, which we've submitted an affidavit
17 supporting all that material, as well
18 as a wealth of other materials to
19 confirm what was there when and what
20 was permitted under the zoning at the
21 time. This is all for everyone's
22 benefit, new-ish but it's -- we're
23 now specifying exactly the relief
24 that we're looking for before this
25 Board.

2 Let me repeat that. The area
3 variance component is to allow two
4 additional nonresident company
5 employees to occupy the basement home
6 office at any time for a total of
7 three. The current code, today's
8 code, only allows one nonresident
9 employee.

10 Additionally, we're seeking an
11 area variance for the unenclosed
12 outdoor storage of three additional
13 commercial vehicles of not more than
14 16,500 pounds for a total of four
15 where the current code only permits
16 one such vehicle. As we've noted at
17 prior meetings, while the property is
18 screened by existing fencing, the
19 applicants are also amenable to provide,
20 and can certainly propose, further
21 mitigation measures to support screening
22 the property in support of a variance,
23 such as the installation of additional
24 screening or prohibiting the cutting
25 of rebar as has been presented in

2 other applications.

3 In support of our arguments for
4 the legal nonconforming use, the
5 request is the Board recognize the
6 historical use of the property by the
7 DiLemme company as a small basement
8 office of 580 square feet tied to the
9 family's business, the garage storage
10 of three commercial vehicles, outdoor
11 storage of one commercial vehicle 25
12 feet or less, because that was the
13 code at the time of the provision,
14 outdoor storage of one tele-handler
15 or similar equipment, and limited
16 outdoor storage of materials and
17 other equipment. So what we're
18 trying to do is relate back to the
19 code that was in existence at the time.
20 It's a combination of things.

21 First, as I think Mr. Donovan will
22 try to work through with the Board, is
23 the home occupation and then the other
24 aspects of the property that were
25 permitted to be operable or usable at

2 the site.

3 The Code Compliance supervisor's
4 determination treated this issue far
5 too broadly, as though the only
6 question was whether the company's
7 overall existing business operation
8 was allowed as a home occupation.
9 That's too far, too broad and not what's
10 presently before this Board.

11 The proper approach, we submit, is
12 to look at each part of the company's
13 actual historical use of the property
14 and then compare it to what was allowed
15 in the 1980 code.

16 Before delving into those details,
17 I do remind the Board that we're looking
18 at this from a de novo review. You're
19 looking at this as a fresh perspective.
20 The building inspector's determination
21 was based on -- we're not even sure
22 it was based on the 1980 code, but it
23 was based on information he had
24 available at that time.

25 The state's highest courts have

2 established repeatedly that any
3 ambiguities in the zoning code have
4 to be read in favor of the property
5 owner. Bearing this in mind, the
6 question is whether the use was lawful
7 under the code when it started and
8 whether it can be continued without,
9 as you mentioned in the prior
10 application before you this evening,
11 if it was abandoned or destroyed. If
12 the answer is yes, then the use can
13 continue even if later rules changed.
14 The prior applications talk about how
15 the zoning change reduced the size of
16 that property, among other things.

17 Bearing this in mind, for this
18 application the important historical
19 code, as I mentioned, is that 1980
20 code which governed the company's use
21 in 1980 until it was replaced in 1991.
22 So the code provision that existed
23 then was the 1980. It was not updated
24 until 1991.

25 The premises was and continues

2 to be in your Town's Agricultural
3 Residential District, so the AR District.
4 Why that matters is because in 1980 that
5 allowed several accessory uses that
6 cover the comprehensive historical use
7 of the property, specifically that
8 basement office, garaging of three
9 commercial vehicles, outdoor storage
10 of one commercial vehicle not more than
11 25 feet in length, outdoor storage of
12 one tele-handler or similar equipment,
13 and outdoor storage of materials and
14 equipment. These are things that were
15 permitted as accessory uses on this
16 property at the time it was initiated.

17 The permitted accessory use is the
18 1980 code, including home occupations,
19 private garages and carports for up
20 to four vehicles, outdoor parking of
21 one commercial vehicle 25 feet or less,
22 and outdoor storage of farm equipment
23 outside as long as it's not in the
24 front yard.

25 In interpreting these provisions

2 it's important to note that that 1980
3 code did not define important terms,
4 such as farm equipment and occupants,
5 therefore the Board should not resurrect
6 or reinterpret these terms as having
7 unreasonably narrow definitions.
8 Moreover, the aforementioned ambiguities
9 are those identified in our June 11th
10 submission or clarified or superceded
11 by future codes. Why that's important
12 is because they were later addressed
13 in new legislation. For example, home
14 occupations were a permitted accessory
15 use in the 1980 code, meaning they were
16 allowed as of right. They later became
17 subject to special permit review. So
18 now if you were to have a home occupation
19 today, under the current codes they
20 would be a special permit use, different
21 from what existed when it was originally
22 approved. That's a major difference,
23 and again supports the applicant's
24 position that the basement office as
25 a home occupation at the time was lawful

2 when it was established. In 2014
3 there was an amendment clarifying that
4 home occupations are limited to
5 activity within the dwellings, which
6 also reads in favor of the applicant.
7 This amendment shows the Town later
8 felt the need to further restrict home
9 occupations, which means the language
10 in prior codes, such as 1980, left room,
11 as is the instance for the applicant,
12 for the company's use of the property.
13 The code continued to be defined and
14 constrained to reflect probably things
15 that happened that the Town felt shouldn't
16 to provide additional clarity. Again,
17 any ambiguities have to be read in
18 favor of the property owner.

19 Later codes also clearly tied
20 certain accessory uses to agricultural
21 operations and placed tighter limits
22 on commercial vehicles and equipment
23 storage. These restrictions can't also
24 be read into the '80's code because it
25 didn't exist. Said another way, if the

2 Town needed later amendments to
3 restrict or prohibit these accessory
4 uses, that supports the argument that
5 the 1980 code did not prohibit the
6 company's historic use of the premises.
7 Any ambiguity should be read in favor
8 of the property owner.

9 I'll now speak to the individual
10 accessory uses because that's where
11 we get into the bread and butter, so
12 to speak, of the rest of the application
13 before you.

14 So turning to the permitted
15 accessory use. As per constituting a
16 home occupation, the basement office
17 was used for an ordinary back office
18 family construction business, things
19 like job -- estimating jobs, paperwork,
20 payroll, accounting, billing and other
21 administrative tasks. That's included
22 in our affidavit. That is the kind of
23 low-impact office use that fits within
24 the idea of a home occupation under that
25 1980 code. The basement office also

2 remains secondary to the home as it's
3 approximately 580 square feet or about
4 28 percent of the total dwelling size
5 living area, which is well below the
6 threshold which was 50 percent in the
7 1980 code. The evidence also indicates
8 that during the relevant period there
9 was not more than one resident employee
10 within the basement use at any one time.
11 That keeps the office within that 1980
12 home occupation allowance.

13 Respectfully, the workshop should
14 also be viewed as a detached garage
15 accessory to the residence and not as
16 a second principal business or other
17 use. It too is expressly permitted in
18 that 1980 code pursuant to the building
19 permit.

20 By December of --

21 MS. REIN: Wow, wow. Can you go
22 back and say that again?

23 MR. PALMER: So the workshop that's
24 on the property was built pursuant to a
25 building permit identifying it as an

2 accessory --

3 MS. REIN: It's attached to the
4 house? I've been there and I'm a little
5 confused.

6 CHAIRMAN SCALZO: The garage out
7 back that you can access off Strawridge.

8 MS. REIN: What about that?

9 MR. PALMER: It was built pursuant
10 to a building permit, meaning it was not
11 treated as a separate use under the code.
12 It's a permitted accessory use under the
13 1980 code.

14 MS. REIN: Thank you.

15 MR. PALMER: By December of 1990
16 the company had three total commercial
17 vehicles stored inside, one commercial
18 vehicle stored outside and one tractor
19 with a backhoe and a front end loader
20 stored outdoors. These are the specific
21 uses the Board is being asked to focus
22 on. That was what was there, that's what
23 was permitted and that's what the code
24 permitted in 1980 under the 1980 code.

25 As I also noted for the Board's

2 consideration, the courts have
3 interpreted protections for non-
4 conformities to permit the replacement
5 of a company's vehicles. Again, we're
6 not talking about just the 1985 Ford
7 that may have been there. The courts
8 have looked at over time, that if it's
9 replaced in kind --

10 CHAIRMAN SCALZO: One for one.

11 MR. PALMER: One for one. So
12 Mr. DiLemme's affidavit also speaks to
13 those criteria. Again, some of those
14 -- equipment has been updated over time,
15 but that's permitted under those non-
16 conforming laws.

17 In sum, the determination letter
18 reduces all aforementioned issues into
19 one question, was the company's use of
20 the property allowed as a home
21 occupation. That frankly misses the
22 point. The proper question, which is
23 much more specific, was were the actual
24 components of this use allowed under the
25 1980 code. It's not just is this all

one thing. There were multiple things that were permitted and approved and/or built that the applicant is now trying to also seek relief to have a little bit more than what was there before.

So to be specific, the basement office fits within the home occupation provision. The indoor vehicle storage fits within the garage/carport provisions of the 1980 code. The company's one commercial vehicle stored outdoors fits within the rule allowing one vehicle under 25 feet. The 1986 Ford tractor fits within the outdoor farm equipment storage provision or falls within the ambiguity that it should be resolved in favor of the applicant.

With that, the 1980 code did not clearly say that outdoor farming equipment or equipment storage had to be tied to an agricultural use. As I mentioned, that language was later added to the code so as to specify what that

2 was and how it would apply. That
3 should not be used to defeat the
4 applicant's historical use on the
5 property.

6 The 1980 code also allowed outdoor
7 parking of one commercial vehicle under
8 25 feet. It did not clearly require
9 that the particular outdoor vehicle
10 be exclusively operated by the occupant
11 of that residence. Even where the word
12 occupant appears in the garage and
13 carport provision, the code didn't
14 define that either. Now, any decision
15 on the application should avoid adopting
16 the narrow focus of what that meant,
17 because, again, it wasn't in the code
18 at the time.

19 This is my last page of materials
20 before you. I know it's a lot.

21 CHAIRMAN SCALZO: I'm hoping you're
22 going to land this plane.

23 MR. PALMER: Turning to the requested
24 area variance. The purpose of the relief
25 is not to create a more intensified

2 commercial operation. It's just the
3 opposite. Nothing new is being
4 presented either. Rather, we're
5 requesting to allow area variances to
6 merely allow the same longstanding use
7 in a limited capacity on the property
8 in a reasonable, less impactful way.

9 Specifically the requested relief
10 is tied to nonresident employee
11 occupation of the basement and limited
12 vehicle storage on the property as it's
13 been for the last forty years. Again,
14 what you're seeing at the property today.

15 As this Board is aware, the
16 required analysis has the five-factor
17 analysis. We've incorporated more
18 details specifically to those items in
19 our materials. I will very briefly
20 summarize that.

21 We submit that the requested
22 variances should not be seen as causing
23 an undesirable change in the character
24 of the neighborhood. The applicants
25 are not proposing a new garage or

2 storage of additional commercial
3 vehicles or making the company or
4 basement office open to the public.
5 The relief is aimed at preserving the
6 permitting together with slightly more
7 than was legally permitted to have
8 under the 1980 code. That will allow
9 the company to continue its use on
10 the premises in a reduced capacity
11 while the applicant is intentionally
12 and actively working towards its new
13 site on New Road here in the Town of
14 Newburgh.

15 The Board can also find that the
16 applicants have no simple alternative
17 that provides the same benefit. Limiting
18 the basement office, the garage and
19 outdoor storage and limited outdoor farm
20 equipment storage will materially disrupt
21 their company, their employees and all of
22 those that have historically been
23 utilizing this property as permitted
24 under the code in 1980.

25 The variance is also not substantial

1 in practical terms when compared to
2 the historical use of the property.
3 The applicants are not asking to
4 transform the property into something
5 different. They're only asking for
6 relief that tracks with the actual
7 history of the site.
8

9 The requested relief will also
10 not adversely impact neighbors. The
11 basement office is inside the residence.
12 The vehicle and equipment storage can
13 be limited in number and location, and
14 additional screening can be installed.

15 We remind the Board that there's
16 only been a few complaints of three
17 new households on this property in the
18 immediate surrounding area as compared
19 to the thirty plus folks that have come
20 out and endorsed the applicant and their
21 operations on the site for the last
22 forty years.

23 Lastly but not least, when the
24 Board considers whether the difficulty
25 is self-created, this factor should

2 not control the outcome. Historically
3 the use -- excuse me. The use developed
4 historically under the old zoning codes
5 continued over time and is now before
6 the Board because of a recent
7 interpretation of the 1980 code that
8 was only made recently available to
9 us.

10 From a practical standpoint,
11 granting the variances will create a
12 much clearer, enforceable result rather
13 than denying the relief all together,
14 which the applicant will appeal.

15 The Board can define exactly what
16 is allowed, cap the intensity of the
17 use and avoid further uncertainty of
18 the scope of the applicant's activities.
19 Going to the conditions mentioned by
20 Ms. Banks earlier, reasonable conditions
21 associated with any variance that could
22 be granted.

23 The applicants also emphasize that
24 they're willing to accept those reasonable
25 conditions, such as incorporating those

2 additional screening measures as
3 mentioned.

4 The goal here is merely to preserve
5 the existing use, not to expand it.
6 Reasonable conditions can help conform
7 -- help confirm that the relief remains
8 tied to the historical use.

9 Overall, the requested variances
10 allow the Board to really protect the
11 community character, impose limits as
12 needed and still avoid an unfair result
13 for a longstanding family business that's
14 totally unique, not precedential and
15 leads itself to have very specific facts
16 on this very specific case.

17 Thank you.

18 MS. REIN: I have questions.

19 CHAIRMAN SCALZO: I was hoping you
20 did.

21 MS. REIN: I do. First of all --

22 CHAIRMAN SCALZO: I am going to
23 certainly let you ask every question you
24 want. Actually, I would like to invite
25 the public to come up and speak first,

2 and then we're going -- we might learn
3 something from the public.

4 MS. REIN: Let me ask one question.
5 One question.

6 You said that you have thirty plus
7 folks who have --

8 MR. PALMER: Yes.

9 MS. REIN: -- said this is a great
10 thing. From what I remember reading
11 about these folks, a whole lot of them
12 didn't live around there.

13 MR. PALMER: We put in a map.
14 There's a map for the benefit of Mr. Politi.
15 There's a map of literally where the
16 residents' letters came from. There are
17 certain letters that weren't necessarily
18 neighbors, but there's literally a map
19 included in your submission.

20 MS. REIN: A lot of these folks
21 weren't impacted by the business because
22 they don't live there.

23 MR. PALMER: They're residents of
24 the Town or otherwise and have experience
25 or driven -- if I may, they're letters of

2 support. We do have direct neighbors
3 that are immediately adjacent to the
4 property that have lived there for
5 more than a few years who have known
6 this operation and seen it, which is
7 really what we're talking about, the
8 history and the longstanding use of
9 it, not just in the last couple years.

10 MS. REIN: Thank you.

11 That's it, Darrin.

12 CHAIRMAN SCALZO: You're welcome.

13 Now I'm going to open it up to any
14 members of the public that wish to speak
15 about this application. Hopefully you're
16 going to keep this to comments that we
17 have heard -- that are new, because if we
18 start hearing this is terrible, I'm going
19 to cut you off.

20 Please state your name and let's go.

21 MS. PETROLESE: My name is Elena
22 Petrolese. My husband is John Petrolese.
23 We live at 2188 State Route 300, which is
24 approximately, if you're counting houses,
25 about five houses away. So they live on

2 that side of the road, we live on this
3 side of the road. Strawridge is on the
4 corner, 300 runs in front of our home.
5 We've been there since 1984. June 6,
6 1984.

7 In response to you, they are the
8 best neighbors. They have been there all
9 along. We met them first. We met our
10 neighbors Mr. and Mrs. Catone who are no
11 longer with us, the Carfizzi family which
12 was on the corner, they are no longer
13 with us, the families around the corner,
14 his grandmother. The whole family,
15 excellent, excellent people.

16 They have never imposed, made noises
17 or were in any way bad for our community.
18 They are a part of our community. They
19 are everything to us. Their family has
20 been there by our side in any of our
21 needs. We've known Nick, his brother,
22 everybody -- everyone there. They are
23 excellent, excellent people. They have
24 never been rude, mean or any of that.

25 Their equipment -- I'm there early

2 in the morning. They abide by all
3 laws, all traffic. They don't zoom
4 up and down the road. They come back
5 at a certain time to close up their
6 business. In the morning -- they go
7 by early in the morning, no noises,
8 no interruption. It's not a business
9 that is violating any of the rights
10 of the people in the neighborhood
11 because they are respectful people.
12 They are wonderful people.

13 CHAIRMAN SCALZO: Thank you.

14 MS. REIN: Thank you.

15 CHAIRMAN SCALZO: I got you. Just
16 to --

17 MS. PETROLESE: That's all I have
18 to say.

19 CHAIRMAN SCALZO: Just so I'm clear
20 where you live, you live across New York
21 State Route 300 that probably has an
22 average annual daily traffic of 5,000
23 cars or more.

24 MS. PETROLESE: Or more.

25 CHAIRMAN SCALZO: Everything else

2 is silent other than the road.

3 MS. PETROLESE: I can tell you all
4 about road noise. So can my husband. I
5 can assure you that I know everybody who
6 is making noise, who is stopping at that
7 stop sign and making -- screeching out of
8 there. I can assure you 110 percent that
9 the DiLemme family is not doing that.

10 CHAIRMAN SCALZO: It's not those
11 guys. Thank you.

12 MS. PETROLESE: They are wonderful
13 people. That's all I have to say.

14 CHAIRMAN SCALZO: I'll say to you
15 as I've said to the other folks that
16 stood up, thank you for taking the time
17 out and coming tonight. It makes a
18 difference.

19 MS. PETROLESE: Thank you.

20 CHAIRMAN SCALZO: As with the
21 previous, please state your name.

22 MR. LENOX: My name is Kyle Lenox.
23 I'm a new resident in the area, the Town
24 of Shawangunk.

25 Me and wife purchased our home last

2 year about this time. We live on the
3 corner of Strawridge and Grandview. I
4 can see Mr. DiLemme's fence, business,
5 residence, whatever you want to call it.

6 I work early in the morning. I
7 come home any given time, from early
8 afternoon, early evening, late evening.
9 When I pass, very seldomly do I see
10 anybody in the yard. My wife works from
11 home three days out of the week. She has
12 the windows open, she works inside,
13 outside. She works for NYU so she's on
14 conference calls and meetings constantly.
15 Any noise interruptions would, you know,
16 obviously not work for her. Again, we're
17 in very close proximity. We don't hear
18 anything. He is very respectful in the
19 neighborhood.

20 Your local landscapers, your
21 garbage trucks at 3:30 in the morning
22 make more noise than a truck pulling into
23 his place of business/residency once a
24 week.

25 We live on the corner. We're, I'd

2 say, maybe three houses down, less than
3 500 feet or so. We have zero, zero
4 knowledge of any noise.

5 CHAIRMAN SCALZO: Thank you for
6 coming out tonight.

7 Does anyone else from the public
8 wish to speak about this application?

9 State your name.

10 MS. COROLLO: My name is Danielle
11 Corollo. I live at 442 Strawridge Road,
12 directly across the street.

13 I don't have much new stuff to
14 share because I've been here every time
15 and I've submitted many, many videos --

16 CHAIRMAN SCALZO: Videos and photos.

17 MS. COROLLO: -- to all of you so
18 you can see a true representation of
19 what's happening.

20 While people who live on 300, they
21 might not hear the noise, or down the
22 street even, I'm directly across the
23 street. I hear it daily.

24 I'm also concerned for my safety.
25 They have boom cranes that could be

2 dropping pallets when I go to get my mail
3 or backing out of my driveway.

4 I'm not here to repeat what I've
5 said many times. You've seen the videos.
6 I hope you had time to review them.

7 There is a detriment to the
8 neighborhood and it has increased in size
9 and intensity. It's not just a few
10 vehicles parked there.

11 Thank you.

12 CHAIRMAN SCALZO: Thank you very
13 much.

14 Does anyone else from the public
15 wish to speak about this application?

16 (No response.)

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

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

22 MS. REIN: I'll second.

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

2 M S . B A N K S : A y e .

3 M R . E B E R H A R T : A y e .

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

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

6 M R . P O L I T I : A y e .

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

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

9 C H A I R M A N S C A L Z O : T h o s e o p p o s e d .

10 (N o r e s p o n s e .)

11 C H A I R M A N S C A L Z O : V e r y g o o d .

12 D i s c u s s i o n -- o n e q u i c k t h i n g . T h e
13 a p p l i c a t i o n i s i n t h e n a m e o f N i c k a n d
14 J e n n i f e r D i L e m m e a n d D i L e m m e & S o n s , I n c .
15 W h o i s -- i s i t N i c k a n d J e n n i f e r o w n i t
16 o r N i c k a n d y o u r b r o t h e r o r -- I d o n ' t
17 k n o w i f t h a t r e a l l y m a t t e r s . I ' m j u s t
18 t r y i n g t o f i g u r e -- I ' v e r e a d i t w a s y o u r
19 d a d t h a t s t a r t e d t h e b u s i n e s s a n d p a s s e d
20 i t d o w n t o h i s s o n s . T h a t ' s g r e a t .
21 T h e r e w e r e t h r e e s i b l i n g s , y o u , y o u r
22 b r o t h e r a n d y o u r s i s t e r I g u e s s .

23 S o w h e r e I ' m g o i n g w i t h t h i s I k n o w
24 y o u w e r e i n h e r e l a s t y e a r , a y e a r a n d a
25 h a l f a g o f o r a n a p p l i c a t i o n o n D e e r R u n

2 Road --

3 MR. DiLEMMME: Correct.

4 CHAIRMAN SCALZO: -- which is not
5 where this is. I'm assuming that's your
6 brother.

7 MR. DiLEMMME: My brother-in-law.
8 Technically my brother.

9 CHAIRMAN SCALZO: Very good. Who
10 lives in that house where the business is
11 conducted out of?

12 MR. DiLEMMME: I don't live there
13 any longer.

14 CHAIRMAN SCALZO: When we talk
15 about a home occupation, that's kind of a
16 -- it's a little fuzzy to me, a home
17 occupation but you don't live there.

18 MR. PALMER: If I may. Part of the
19 application or part of the consideration
20 that we're looking at was the historic
21 use in 1980, right. So we're looking at
22 the 1980 code and we're applying that
23 standard. I appreciate the Chairman's
24 point as with respect to the tenancy of
25 the residence itself.

2 We're still -- the occupation is
3 still being maintained in the residence
4 today. Tomorrow they could terminate
5 their lease and reoccupy the residence,
6 so to speak, if that were a concern,
7 but --

8 CHAIRMAN SCALZO: Okay. So --

9 MR. PALMER: I think the threshold
10 determination -- go ahead.

11 CHAIRMAN SCALZO: Again, a home
12 occupation to -- then they list the
13 criteria and say not limited to. I
14 understand that. The only time they
15 actually mention the word commercial is
16 when they're talking about an animal
17 hospital.

18 MR. PALMER: I might be able to
19 provide some clarity then just to that
20 point. Our position is that it's an
21 existing nonconformity in the utilization
22 of the home occupation. It's been a
23 nonconforming use, regardless of residence
24 or not.

25 The other relief we're seeking is

2 essentially saying that the use is
3 permitted and therefore the area
4 variances are permissive as area
5 variances for the number of vehicles
6 that we're seeking. So there are two
7 components.

8 CHAIRMAN SCALZO: That's where I'm
9 struggling. As a home occupation, and
10 they list everything, it would appear
11 that the homeowner was the actual one
12 that's actually, you know, the business
13 owner. So it's as having -- I don't know
14 that it's a rental. Maybe it's a family
15 member that lives there. It's an oddity
16 to me.

17 MR. DONOVAN: Mr. Chairman, if it's
18 okay with you and the Board, I want to,
19 if I can, try to -- there's an awful lot
20 of stuff that you've seen and you've read
21 and tried to digest -- to try to kind of
22 like distill it to what you need to do
23 first.

24 So the argument by the applicant is
25 that they're a preexisting nonconforming

2 use, right. That means that the use had
3 to be legal when it started. Their
4 argument is they were legal when they
5 started in 1984, 1985, whatever that is,
6 under the 1980 code.

7 What I would suggest that you do,
8 I'm sure you've done it before, and maybe
9 I'll read it again now, we have an
10 affidavit from Nick DiLemme submitted
11 with the June 11th submittal. Paragraph
12 4 in which he says, "I make this affidavit
13 in support of an interpretation by the
14 ZBA that the company's use of the premises
15 for commercial purposes, specifically the
16 approximately 580 square foot office in
17 the basement of the residence, the one-car
18 garage adjacent thereto and the premise's
19 detached two-car garage for the purpose
20 of back office operations and business
21 administration, and the storage and repair
22 of company vehicles, equipment and
23 materials, both indoor and outdoor, is a
24 legal nonconforming use that has continued
25 since the 1980s."

2 As I understand it Taylor, that's
3 where it started.

4 MR. PALMER: Right.

5 MR. DONOVAN: So you understand
6 that that is the use in the early 1980s.
7 Then I would suggest that you need to
8 take a look at the definition of home
9 occupation to determine if that use fits
10 into the definition of home occupation,
11 right. Again, we're going from what
12 we're calling the 1980 code, which is
13 exhibit B in your June 11th submission.
14 It's long, but let me try to read it.
15 Not try to read it. Let me read it.
16 Home occupation is defined as "Any
17 gainful occupation or profession
18 customarily conducted within a dwelling
19 by the residents thereof, clearly
20 secondary to the use of the dwelling for
21 living purposes, in which it does not
22 change the character of the structure as
23 a residence. Said activity shall not
24 have more than one nonresident employee
25 working on the premises at any one time

2 and shall not occupy more than one half
3 of the ground floor area of the dwelling
4 or its equivalent elsewhere in the
5 dwelling if so used. Permissible home
6 occupations include but are not limited
7 to the following: Art studio, dress
8 making, offices for a clergyman, lawyer,
9 physician, dentist, architect, engineer,
10 real estate agent or accountant, teaching
11 with musical, dancing and other
12 instruction limited to one pupil at a
13 time. However, home occupations shall
14 not be construed to include uses such as
15 the following: Clinic or hospital,
16 barbershop or beauty parlor, restaurant,
17 animal hospital or commercial animal
18 breeding."

19 So as a first step you need to
20 determine if the use as described falls
21 within that definition of home occupation.
22 If you determine that it does, then we
23 go on to the additional uses that are
24 being -- I shouldn't say that. The
25 increased use that is being described

2 for the relief being requested. If you
3 decide that that's not a home occupation,
4 then you go to consideration of the use
5 variance.

6 MR. PALMER: I'll just add one
7 caveat to that. It's not just the home
8 occupation that's before this Board.
9 It's the storage of the vehicles, right.
10 That is totally separate and apart from
11 the home occupation.

12 So while there's the option of what
13 Mr. Donovan just described, which is
14 collectively that that's existing
15 nonconforming, there is also -- if that
16 fails, before you went to the use
17 variance standard, you'd also be looking
18 at the existing permissions for those
19 vehicles to otherwise be onsite as well.

20 I just wanted to make a point of
21 information. I know we didn't get there
22 yet.

23 MR. DONOVAN: I don't know that I
24 necessarily agree with that because I
25 don't think it's a la carte. I don't

2 think we can pick one or the other.

3 MR. PALMER: You could have a shed.
4 With all due respect, that's not true.
5 You could have a shed, you could have
6 vehicles, you could have tractors.
7 You're saying that each one of these
8 would be considered an accessory use.
9 That's ridiculous. You could have a
10 garage that's detached. You could have a
11 shed that's detached. You could have a
12 pool. You could have a pool house.
13 There's a whole host of things that --

14 MR. DONOVAN: They're all listed as
15 separate accessory uses in the 1980 code.
16 Home occupation is one. A private garage
17 is two. A garden shed is three. Does
18 the term apply to the use in a structure
19 clearly incidental or subordinate to the
20 principal building. I don't think you
21 can have an accessory use to an accessory
22 use. I think you have --

23 MR. PALMER: No. You can have
24 multiple accessory uses. This is not a
25 commercial accessory use.

2 MR. DONOVAN: But the accessory use
3 you're describing is part of the home
4 occupation.

5 MR. PALMER: That's what your
6 building inspector said. What we're
7 saying is that was his overly broad
8 interpretation. He took one thing and
9 pulled it all together.

10 Notwithstanding whether one thing
11 is what the building inspector said, when
12 you look at the 1980 code, you could have
13 all these things a la carte, as you
14 called it. You could have each of these
15 as permitted accessory uses. We put
16 forth multiple --

17 MR. DONOVAN: They need to be
18 accessory to the principal use, which is
19 a residential dwelling.

20 MR. PALMER: Right.

21 MR. DONOVAN: You're saying all
22 these are accessory --

23 MR. PALMER: If I may.

24 MR. DONOVAN: We're getting off
25 track here, Taylor.

2 MR. PALMER: You said we go straight
3 to the use variance. I'm saying that's
4 inaccurate.

5 MR. DONOVAN: I don't think it's
6 inaccurate, right. We disagree on that.

7 MR. PALMER: Specific to home
8 occupation. If you said all of this,
9 everything you just described, all of
10 these trucks and vehicles and storage
11 were the -- were all one bundle, you
12 bundle them all together rather than
13 multiple accessory uses which is a
14 separate request. We added that by the
15 supplemental submission once we got the
16 code that was provided to us last month.
17 That's what we're suggesting. Now that
18 we have the code, if it's not determined
19 that this limited use, not the current
20 use but the limited use that was
21 permitted in 1980, is an existing
22 nonconformity, if that's not determined,
23 then we're seeking in the alternative
24 essentially a determination that those
25 were otherwise accessory to the home, the

2 residence and the home occupation as its
3 own -- whether it's home occupation or
4 residence. If you said no to home
5 occupation, these would be otherwise
6 accessory uses that were permitted. Your
7 building inspector took it all and just
8 popped it together. That's why I was
9 getting into the concern about whether or
10 not we would need to re-notice this
11 hearing in line with that now we have the
12 benefit of the code.

13 MR. DONOVAN: I think the notice is
14 broad enough. Let me just -- go ahead.

15 MS. BANKS: This is a question for
16 Joe, actually.

17 Joe, so how do -- how do COs factor
18 into this? That was one of the things
19 that stood out in the judgment that we
20 originally got. Like the business never
21 had a CO. Whether the use was permitted
22 in 1980 or now, can they operate without
23 a CO? How does the CO factor into all of
24 this?

25 MR. MATTINA: Well that's what we're

2 here to determine, if they're existing
3 nonconforming.

4 MR. DONOVAN: So there are -- the
5 argument is, and I don't disagree with
6 the argument, that it didn't require a
7 permit when it started. There are also
8 cases out there that say when considering
9 a nonconforming use -- the continuation
10 of a nonconforming use, the fact that it
11 doesn't have a CO is not dispositive.
12 Can a nonconforming use -- in a vacuum.
13 I'm not talking about this use. Can a
14 nonconforming use exist without a CO.
15 The answer to that is yes.

16 MR. PALMER: We noted this in our
17 prior submission. The Code Compliance
18 department has maintained COs for the
19 residential workshop, but the building
20 permit for the workshop indicates that it
21 was closed on September 10, 1985. The
22 case law speaks to it, but there are
23 other reasons why there wouldn't have
24 been a CO for this operation just based
25 on how records were kept in the Town.

2 MS. REIN: Dave, from what you've
3 told us, from what you read to us about
4 it being a home residential business, it
5 sounds to me like it's not.

6 MR. DONOVAN: I'm just reading the
7 code to you. I don't vote. I don't make
8 the determination. That's up to you guys.

9 CHAIRMAN SCALZO: He's not a voting
10 member.

11 MS. REIN: I just want to make sure
12 I'm interpreting what you said is correct.

13 MR. DONOVAN: That's your threshold
14 determination, whether or not this was a
15 home occupation when it was established,
16 because that's the argument.

17 MR. PALMER: Let me remind the
18 Board, too, of what was operating on the
19 site. I'll have Nick tell you what his
20 dad and what his mother --

21 MR. DONOVAN: Is it different from
22 what's in the affidavit?

23 MR. TAYLOR: No, it's not, but I'm
24 now speaking to Ms. Rein's point. She's
25 saying that's what you said. That's not

2 what we've said. It is crystal clear
3 that it was a home occupation.

4 MS. REIN: The only reason I'm
5 thinking it's not a home occupation is
6 because the owner doesn't live there
7 anymore and I don't know --

8 MR. PALMER: You're speaking to the
9 current regulations.

10 CHAIRMAN SCALZO: No, no. The home
11 occupation stuff is back even in 1972.

12 MR. PALMER: I'm asking Mr. DiLemme
13 to speak to in 1980 what the home
14 occupation was because that's what was in
15 this location in -- go ahead. Just speak
16 to what the operations were, who was
17 living in the house and who was working
18 in the house.

19 MR. DiLEMME: My parents were
20 living in the house. I was there until
21 1989.

22 CHAIRMAN SCALZO: It's highlighted
23 in this submittal. That confirms what
24 you're saying.

25 MR. DiLEMME: I moved out in 1989

2 and then I -- my parents moved out in
3 2003 and I moved in, purchased the home
4 from my parents, me and my wife Jennifer,
5 and we have -- there's six of us. I have
6 four children. We outgrew the house. We
7 built a house in the Town of Newburgh and
8 moved into it.

9 CHAIRMAN SCALZO: Lovely home.

10 MR. DiLEMMME: Thank you. You know,
11 we've been here since 1963. This is our
12 family's home. It's going to stay a
13 family house whether there's a business
14 there or not.

15 I don't even know what to say. I'm
16 disappointed we're in this situation, but
17 we are. I mean, we tried to keep the
18 place clean, respectful. We keep the
19 hedges neat on both sides and landscape
20 it. On Strawridge Road we clear the road
21 for visibility coming around turns. I've
22 always been helpful to the neighbors. I
23 mean, you know, there are two neighbors
24 that don't like me and they never
25 approached me.

2 CHAIRMAN SCALZO: Your integrity --
3 I don't think your integrity is at issue
4 here.

5 MR. PALMER: To Ms. Rein's point,
6 it was a home occupation. We're trying
7 to maintain ourselves as an existing
8 nonconformity pursuant to that. Beyond
9 that, I respectfully disagree with
10 Mr. Donovan.

11 MS. REIN: As of --

12 MR. PALMER: You heard differently
13 from Mr. Donovan.

14 MS. REIN: As of now it's not a
15 home operation.

16 CHAIRMAN SCALZO: It's more along
17 the lines of some of the photos and
18 videos that we've seen, I've seen folks
19 unloading --

20 MR. PALMER: It's expanded.

21 CHAIRMAN SCALZO: Yes. It's an
22 expanded business. Unloading trucks of
23 materials, supplies, cutting rebar. When
24 you read the home occupation from the '80
25 code, and I hate to use the word intent

2 because that's not what it is. Intent
3 can't be proven. Every one that's
4 mentioned here is an inside type of
5 activity. What I just described with the
6 unloading of materials and supplies,
7 cutting rebar, that's kind of an outside
8 activity. It is an outside activity. It
9 doesn't appear to fit what the home -- as
10 I sit and read the written word, that's
11 not where I land.

12 MR. PALMER: Understood. What I
13 think is most important for the Board
14 today and tonight is explicitly that the
15 home occupation, the operation in the
16 home, right, the 580 square feet which is
17 the bundle that we're in, that was for
18 bill paying and operational coordination.
19 That is what the home occupation is.

20 We're suggesting, and it was
21 permitted in the code at that time, that
22 these vehicles and other outdoor storage
23 were accessory to, whether you call it a
24 home occupation, the residence above, the
25 collective thereof. Each of those, I

2 like Mr. Donovan's word, a la carte items
3 were permitted accessory uses. That's
4 why the building inspector went too far
5 and overly said all this was one thing.
6 That's fine, but you didn't read the fact
7 that other uses were permitted accessory
8 uses.

9 What we're asking the Board to
10 confirm is that, sure, the 580 square
11 feet for the occupants' bill paying and
12 coordination, that's a home occupation.
13 The outside utilization, those trucks,
14 the garage, the workspace that had the
15 building permit and the CO, for the
16 reasons stated, those were permitted
17 accessory uses at the time.

18 MR. DONOVAN: Accessory to the
19 residence.

20 MR. PALMER: Again David, the Board
21 has to make a determination on the threshold
22 issue.

23 MR. DONOVAN: I know they do. I know
24 they do.

25 MR. PALMER: If I may. We're here.

2 We're not asking the Board to adjourn
3 this to December. We're trying to
4 narrow these issues down.

5 You can be in a position, ideally maybe
6 David puts together a resolution or
7 something to try and address some of this
8 stuff. Depending on how this goes, we're
9 prepared to appeal a determination that
10 doesn't define correctly, in our position,
11 that in some way the home occupation was
12 permitted and these accessory uses were
13 permitted. That's all we're here before
14 you for. Previously when we didn't have
15 the code, we were operating on the
16 presumption that everything as we've
17 described was permitted, period, in that
18 one bundle. Now we have the benefit of
19 the code that was in place at the time,
20 so now we're seeking relief specific to
21 those uses a la carte or as one.

22 I think you're making great points
23 all around, but the house -- the 580 square
24 feet was a home occupation. Each of these
25 trucks or vehicles could be permitted. Not,

2 again, what's presently on the premises
3 today.

4 CHAIRMAN SCALZO: One for one.

5 MR. PALMER: One for one.

6 Then we're seeking relief, assuming
7 those determinations are made, for
8 additional benefit or relief from those
9 limitations under the current code. That
10 would be under today's --

11 MS. REIN: Because it's grown
12 exponentially, you're talking about
13 adding more? Is that what you're saying?

14 CHAIRMAN SCALZO: They want to keep
15 what's there.

16 MR. PALMER: We're not asking for
17 that. We're asking for -- so what's
18 there today we have included. What we
19 can incorporate into that supplemental
20 submission is here's what's there today
21 and here's all we're suggesting we are
22 able to so called maintain as of right,
23 and plus what we're asking for on top of
24 that which is less than what's presently
25 there today.

2 MS. REIN: When you were reading
3 and talking about one to one and this, I
4 mean, when I was on the property I saw at
5 least ten trucks.

6 MR. PALMER: Right. I can tell you
7 exactly what we're asking for. It's to
8 have three commercial vehicles in garages
9 on the property, one in the residence
10 garage, two in the workshop; one
11 commercial vehicle that's outdoors that's
12 less than 25 feet long; one of its
13 tele-handlers that can be kept outdoors;
14 and then storage of the materials and
15 equipment outside. Then of course to
16 continue operation of the home office
17 within the building. That's what we're
18 asking for, not what's there presently.

19 MS. REIN: So what's going to
20 happen to the rest of that equipment?

21 MR. PALMER: We said we're moving
22 it to a new location. It's going to go
23 to the new site or a temporary location
24 until that site is --

25 MS. REIN: Why can't all of it go

2 and just leave the home occupation?

3 MR. PALMER: Precisely. This
4 operation has been onsite for forty plus
5 years. It was permitted to be there. A
6 neighbor complained. We're here now
7 before you even though the rest of the
8 neighborhood said good guys, great folks,
9 great family, been there, done that,
10 supported all of us. We're here because
11 two folks complained. So we're trying to
12 address their concerns, and we're even
13 offering additional mitigation so as to
14 help this operation, this family stay in
15 the Town doing this work. If that project
16 never gets approved by the Planning Board,
17 the cost of renting locations -- they have
18 the space. You're suggesting they move
19 to a new location. It's easier said than
20 done.

21 MS. REIN: Well they have a new
22 location.

23 MS. BANKS: You suggested it. You
24 said that they were going to move some of
25 their stuff to a new location and they were

2 planning to move some of the stuff
3 off the current property. She's asking
4 a very good question, why can't they
5 just move everything off of the property?

6 MR. PALMER: Again, the applicant
7 has been operating here for forty years.
8 So you're saying just because a neighbor
9 complained, that their whole use that was
10 permitted should go away?

11 MS. BANKS: No. What I'm saying is
12 it's expanded and disruptive, right. If
13 you're going to move a little bit --

14 MR. PALMER: It's disruptive to two
15 commenters that have commentated, yes.

16 MS. BANKS: I mean, I don't live
17 there, but if I saw that where I was
18 listening to that, it wouldn't make me
19 happy, right.

20 MR. PALMER: Understood.

21 MS. BANKS: She's making a great
22 point. You're saying that you're going
23 to move a little bit of the stuff to a
24 new location -- you're going to move some
25 of the stuff, but you want to keep some

2 of the other stuff.

3 MR. PALMER: We want to keep what
4 was permitted to be there.

5 MS. BANKS: Why not move everything?
6 If you have a space that you can move --

7 MR. PALMER: Well, they don't. That's
8 the problem. We have an application that's
9 pending before the Planning Board that would
10 allow some or at least a portion of the
11 operation. The building that had originally
12 been approved can't be approved today in
13 its current size because of new wetland and
14 related regulations. The New Road site may
15 not be able to take everything from this
16 site. They're also looking at other rental
17 locations, at a very expensive cost, in the
18 interim while that application pends.

19 What we're here before you is for a
20 reduced operation that they were allowed to
21 have. That's why we're here.

22 MS. BANKS: Sure. What I would hate
23 to see happen is we agree to move some of
24 the stuff somewhere, to wherever, and then
25 the same operation is still happening.

2 MR. TAYLOR: To your point,
3 Ms. Banks. Exactly as you said on the
4 prior application, you have the ability
5 to put on an area variance approval or
6 nonconformity approval specific rationally
7 related conditions that the building
8 inspector can then say you have this,
9 this and this, you're installing this
10 mitigation, you are not having rebar
11 cutting, you're not doing any of this.

12 MS. BANKS: I would be concerned
13 that they would actually follow it.

14 MR. PALMER: Which is not a
15 standard that can be considered.

16 MR. DONOVAN: If you get past go as
17 I described before, my suggestion would
18 be, and I don't mean to spend more of
19 their money, is that you have some sort
20 of site plan. If you remember, we did
21 that with the WCC Tank property. There
22 was a site plan that was developed that
23 said what can go where, what could be on
24 the site, where the parking is going to
25 be in a delineated area. That's if you

2 get past go. You need to first decide
3 whether or not this use was legally
4 established in the 1980s.

5 If you get that far, and I'm not
6 suggesting you do one thing or another,
7 and, in fact, remember, the Chairman did
8 say you have 62 days to decide, and
9 there's a lot of stuff here. If you want
10 to decide tonight, that's great.

11 MR. PALMER: The applicant can
12 extend the time.

13 MS. REIN: I don't want to extend
14 it any more.

15 MR. DONOVAN: If you get past go, I
16 would suggest that you have a site plan
17 prepared so your conditions are specific,
18 they're not done after two hours of a
19 public hearing, and you have a map that
20 Code Compliance can take a look at that
21 the applicant knows, that the ZBA knows
22 and it's clear. That's just my
23 suggestion.

24 MR. PALMER: It's very similar
25 to that Conklin application.

2 MS. REIN: The home occupation,
3 from what I'm hearing, was okay in 1980.
4 In 1960, in 1980.

5 MR. DONOVAN: That's their argument.
6 You need to decide that.

7 MS. REIN: But it doesn't apply now
8 because they're not living there anymore.

9 MR. DONOVAN: So --

10 MS. REIN: I don't know.

11 MR. DONOVAN: -- the threshold
12 issue that you need to decide is whether
13 or not the use was legal when it was
14 established. If it wasn't legal when it
15 was established, that's it, we all go
16 home and watch the USA game.

17 MS. REIN: When it was established
18 the family was living in the home.

19 MR. DONOVAN: I'm not trying to
20 argue with you. I'm just saying that's
21 what you need to decide.

22 CHAIRMAN SCALZO: I understand what
23 you're saying completely. If they had
24 the variances to operate a home-based
25 business in 1982, that apparently goes

2 with the land.

3 Correct, Dave?

4 MR. DONOVAN: Unless there's been
5 -- so now we're going to get more
6 complicated. I don't know -- obviously
7 Taylor and I had a conversation about
8 this because lawyers talk about lawyer
9 stuff. It's real important to the people
10 who have an investment and the people
11 that live there. There's a legal issue
12 in my view. Taylor is asking for area
13 variances that increase the intensity of
14 the use. There's a provision in our
15 Code, Section 185-19A, that says, "A
16 nonconforming use may continue
17 indefinitely subject to the following:
18 One, alterations. A nonconforming use
19 shall not be enlarged, extended,
20 reconstructed or restored except in
21 accordance with Section B(2)" which is
22 restoration after damage.

23 So I said to Taylor when we spoke
24 today, I don't know whether an area
25 variance is a correct vehicle for the

2 additional outdoor storage of vehicles
3 and the additional employees because you
4 have an absolute prohibition of 185-19A.
5 We don't get there unless you get past
6 go.

7 MR. PALMER: We can provide
8 additional support to that side of it.

9 What we're asking today is that the
10 Board determine that Mr. DiLemme's parents,
11 who lived in the building, worked out of
12 the building, were operating a home
13 occupation, taking apart other vehicles
14 that can be stored on the site permissibly
15 under the a la carte accessory uses. That's
16 where we are.

17 If you did -- again, we're willing to
18 waive the 62-day requirement. If that's a
19 pressure, that's not a concern. We can
20 get the additional materials to support
21 this to you. We're trying to get there
22 with you. We only just got the law last
23 month.

24 MS. REIN: There were no new rules
25 after '82? '82 is the standard we're

2 looking at?

3 MR. DONOVAN: No. There's new
4 rules after '82. That's why it's a
5 continuation of a nonconforming use.

6 Remember, in order to be a
7 permitted nonconforming use, you must
8 have been legal when the use was
9 established. That's why I read what they
10 state was there in 1984 and what the code
11 was at the time relative to home occupations.

12 MS. REIN: So if we agree that it
13 was legal then, then we're going -- then
14 we have to decide on the nonconforming
15 issues. Correct?

16 CHAIRMAN SCALZO: No. What Dave
17 just read out of the code says they can't
18 expand.

19 MS. REIN: They can't what?

20 MR. DONOVAN: Unless there's some
21 way to get relief from that code
22 provision. We get to that only if you
23 decide the use was legal in 1984. If you
24 decide that, then we're talking about the
25 expansion, and then I'm suggesting a site

2 plan.

3 CHAIRMAN SCALZO: I am
4 wholeheartedly agreeing with that.

5 Going back to what was originally
6 there, the storage of materials, I'm not
7 a fan, and anything other than what was
8 initially talked about.

9 I'm one of seven. The way I look
10 at it is there was an established
11 business there at the time. As far as
12 the expansion of it goes, I'm not a fan.

13 MS. REIN: Right. So how do we do
14 that?

15 CHAIRMAN SCALZO: That's just you
16 and me.

17 MR. EBERHART: Can we put conditions
18 on this? Dave mentioned the site plan.

19 CHAIRMAN SCALZO: What's the site
20 plan going to do for us?

21 MR. PALMER: We show landscaping,
22 we show other improvements, we show where
23 vehicles are located.

24 MR. EBERHART: Additional screening,
25 a complete restriction of cutting the

2 rebar.

3 MR. PALMER: Hours of operation,
4 how many employees. All of that gets
5 restricted through a site plan.

6 CHAIRMAN SCALZO: Okay. Let's say
7 that we go that way. Now we're back to
8 -- I don't want to say you're hamstringing
9 yourself when you do that. I'm mentioning
10 no storage of materials or supplies.

11 MR. PALMER: That's permitted under
12 -- I won't speak to that.

13 CHAIRMAN SCALZO: That's an
14 expansion of the business in my opinion.

15 MR. PALMER: Right. We have to
16 submit support one way or the other for
17 all of those things. We're working with
18 you because of a code we just got and
19 trying to get there. We wanted to have
20 that before you when it was initially
21 requested. Thanks to you we did get it.

22 CHAIRMAN SCALZO: Okay. So where
23 are we at?

24 MS. REIN: I think we can say that,
25 you know, back in the day it was legal.

2 It was a legal home business.

3 MR. DONOVAN: It depends.

4 MS. REIN: In '63 and '82 when the
5 family was living there and they had
6 those rules then. They don't apply now.
7 They're not okay now, but they were okay
8 then.

9 CHAIRMAN SCALZO: Right. It's just
10 the expansion.

11 MS. REIN: They expand exponentially.
12 They're no longer a small business. They
13 became huge.

14 CHAIRMAN SCALZO: Ms. Banks, I can
15 almost read your lips. If you read
16 neatly what it says here, there's six
17 words, "but are not limited to." Or is
18 that five words? Anyway, they list them
19 all, but they don't close the door.

20 MS. BANKS: Sure.

21 MR. EBERHART: Which allows for the
22 expansion.

23 MR. DONOVAN: That doesn't allow
24 the expansion.

25 MR. PALMER: Any ambiguity should

2 be read in favor of the applicant.

3 CHAIRMAN SCALZO: It's like the tie
4 goes to the runner.

5 MR. PALMER: We've got a la carte
6 and the tie goes to the runner.

7 We can prepare a site plan and
8 submit it back to the Board now that
9 we're narrowing the issues.

10 I'm definitively waiving the 62-day
11 requirement. Again --

12 CHAIRMAN SCALZO: If we're here for
13 more than 62 days after tonight, I'm
14 going to slit my wrists.

15 MR. PALMER: Oh, gee.

16 CHAIRMAN SCALZO: We don't have an
17 August meeting. You have July.

18 Anyway --

19 MR. DONOVAN: Let me ask this.
20 Would the Board feel more comfortable if
21 you got a site plan before you voted on
22 something?

23 CHAIRMAN SCALZO: I would.

24 MR. POLITI: That would be -- as
25 you said, if I heard right, that's

2 definitive. This is what's there, this
3 is what we're going to store.

4 MS. REIN: These are the operations.

5 MR. POLITI: I would feel better.
6 That makes it a lot easier to control.

7 MR. DONOVAN: Everyone is reading
8 from the same playbook.

9 CHAIRMAN SCALZO: The rub to me, I
10 agree with you Mr. Politi, is that on
11 this site plan, which I also am
12 supporting, I would like clearly defined
13 what was, in the applicant's mind,
14 allowed in 1982.

15 MR. PALMER: Back to the future.

16 CHAIRMAN SCALZO: Yes. Clearly.

17 MR. PALMER: And it was 1981.

18 CHAIRMAN SCALZO: Thank you.

19 Clearly what it is on the map that
20 was allowed at that time and then
21 anything extra. You can call the initial
22 ones As and everything else Bs, just so
23 we can all figure it out, or color code
24 it. Take your pick.

25 MR. POLITI: Literally from a

2 visual standpoint, color code it.

3 MS. REIN: Also what they do there,
4 the cutting of the rebar.

5 MR. DONOVAN: I think it's what
6 they're going to do.

7 CHAIRMAN SCALZO: That's going to
8 have to be outlined on the site plan. If
9 there's twenty items, we can go one by
10 one, which would, if we get there, help
11 Dave with the resolution. This is
12 allowed, this is not. The more specific
13 we are --

14 MS. REIN: Don't we have to vote
15 tonight on whether or not they were legal
16 then?

17 CHAIRMAN SCALZO: No.

18 MS. REIN: Okay.

19 MR. DONOVAN: The one thing I think
20 we need to talk about, if there's going
21 to be a new submittal, the public has to
22 have an opportunity to comment on it.

23 MR. PALMER: Re-notice.

24 CHAIRMAN SCALZO: I think we'd have
25 to reopen the public hearing as well.

2 Re-notice the public hearing.

3 All right. Let's start with that.
4 I'll look to the Board for a motion to
5 reopen the public hearing.

6 MR. HERMANCE: I'll make a motion
7 to reopen the public hearing.

8 MR. MASTEN: I'll second it.

9 CHAIRMAN SCALZO: We have a motion
10 from Mr. Hermance. We have a second from
11 Mr. Masten. All in favor.

12 MS. BANKS: Aye.

13 MR. EBERHART: Aye.

14 MR. HERMANCE: Aye.

15 CHAIRMAN SCALZO: Aye.

16 MR. POLITI: Aye.

17 MR. MASTEN: Aye.

18 MS. REIN: Aye.

19 CHAIRMAN SCALZO: Now I'm going to
20 look to the Board for a motion to have
21 the applicant prepare a site plan
22 indicating what was initially, in their
23 opinion, allowed in the early '80s and
24 what they are hopeful to have the Board
25 consider.

MR. POLITI: I'll make the motion.

MR. HERMANC: Second.

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

MS. BANKS: Aye.

MR. EBERHART: Aye.

MR. HERMANC: Aye.

CHAIRMAN SCALZO: Aye.

MR. POLITI: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Applicant, are you clear with what we're looking for?

MR. PALMER: Crystal.

CHAIRMAN SCALZO: Now, I'm also going to look to the Board for a motion to continue this -- actually, we don't need to. We extended the public hearing.

MR. DONOVAN: Just to be clear to everyone here, the matter will be on the agenda at the July meeting.

Does that give you enough time to prepare a site plan?

2 CHAIRMAN SCALZO: Surveyors are
3 really backed up these days. Having to
4 get one out there in the next two and a
5 half weeks --

6 MR. PALMER: I'll call Brendan
7 Johnson tomorrow.

8 CHAIRMAN SCALZO: The burden is on
9 you.

10 The public will be re-noticed, so
11 you guys, or whoever is here for that
12 will get another opportunity to talk.

13 Please be advised, if you're here
14 to review this, this information that
15 they're going to supply to us in a site
16 plan form will be online. You can all
17 look at it before you get here. If you
18 can't find it online, come and see
19 Siobhan and she'll share a copy with you.

20 MS. JABLESNIK: Sure.

21 CHAIRMAN SCALZO: She's here to
22 help.

23 MR. PALMER: Thank you for your
24 time.

25 Go Knicks. Go USA. Beat Turkiye.

CHAIRMAN SCALZO: Thank you so
much.

(Time noted: 9:02 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 30th day of June 2026.

Michelle Conero

MICHELLE CONERO

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

MICHAEL DURYEA
65 Cronk Road, Wallkill
Section 1; Block 1; Lot 7.2
AR Zone

----- X

Date: June 25, 2026
Time: 9:02 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANC
JOHN MASTEN
JAMES POLITI
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

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

2 CHAIRMAN SCALZO: Under Board
3 business we have Michael Duryea, 65
4 Cronk Road, Wallkill, a request for a
5 six-month extension to variances
6 granted at the December 2025 meeting.

7 Any discussion on that, folks?

8 Historically we have granted
9 these, although Dave used some really
10 great Latin.

11 MR. DONOVAN: Nunc pro tunc,
12 meaning now for then. They asked a
13 little bit late. Go ahead.

14 CHAIRMAN SCALZO: I apologize.
15 This is so procedural. If you
16 want, if we have a question for you,
17 we'll ask. You don't need to present.

18 MR. DONOVAN: The only thing you
19 can do is screw this up.

20 CHAIRMAN SCALZO: Here it is,
21 Members of the ZBA. We typically grant
22 six-month extensions. I can't see a
23 reason why we wouldn't tonight.

24 MS. REIN: Exactly.

25 CHAIRMAN SCALZO: I'll look to the

2 Board for a motion to approve the six-
3 month extension for Michael Duryea.

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

5 MS. BANKS: I'll second.

6 CHAIRMAN SCALZO: We have a motion
7 from Mr. Masten. We have a second from
8 Ms. Banks. All in favor.

9 MS. BANKS: Aye.

10 MR. EBERHART: Aye.

11 MR. HERMANCE: Aye.

12 CHAIRMAN SCALZO: Aye.

13 MR. POLITI: Aye.

14 MR. MASTEN: Aye.

15 MS. REIN: Aye.

16 MR. CELLA: Thank you.

17

18 (Time noted: 9:04 p.m.)

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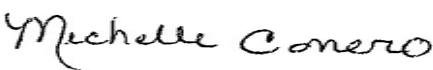
C E R T I F I C A T I O N

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 30th day of June 2026.



MICHELLE CONERO

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

MARIA HANLEY

29 Dandelion Lane, Wallkill
Section 2; Block 1; Lot 94
AR Zone

----- X

Date: June 25, 2026
Time: 9:04 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

----- X

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

2 CHAIRMAN SCALZO: Next under
3 Board business is Maria Hanley. This
4 is the same deal. 29 Dandelion Lane
5 in Wallkill, a request for an extension
6 of the variances granted at the November
7 2025 meeting.

8 MR. EBERHART: Yes, I'll make the
9 motion.

10 MS. BANKS: I'll second.

11 CHAIRMAN SCALZO: We have a yes, a
12 motion from Mr. Eberhart. We have a
13 second from Ms. Banks. All in favor.

14 MS. BANKS: Aye.

15 MR. EBERHART: Aye.

16 MR. HERMANCE: Aye.

17 CHAIRMAN SCALZO: Aye.

18 MR. POLITI: Aye.

19 MR. MASTEN: Aye.

20 MS. REIN: Aye.

21 CHAIRMAN SCALZO: Those opposed.

22 (No response.)

23 MS. JABLESNIK: They have a five-month
24 extension?

25 CHAIRMAN SCALZO: They have five.

2 Other than that, approval of the
3 previous meeting minutes.

4 MS. BANKS: I'll make a motion to
5 approve the meeting minutes.

6 MR. EBERHART: I'll second.

7 CHAIRMAN SCALZO: We have a motion
8 from Ms. Banks. We have a second from
9 Mr. Eberhart. All in favor.

10 MS. BANKS: Aye.

11 MR. EBERHART: Aye.

12 MR. HERMANCE: Aye.

13 CHAIRMAN SCALZO: Aye.

14 MR. POLITI: Aye.

15 MR. MASTEN: Aye.

16 MS. REIN: Aye.

17 CHAIRMAN SCALZO: Those opposed.

18 (No response.)

19 CHAIRMAN SCALZO: Very good.

20 Motion to adjourn.

21 MS. REIN: I'll make a motion to
22 adjourn.

23 CHAIRMAN SCALZO: I'll second it.

24 All in favor.

25 MS. BANKS: Aye.

2 MR. EBERHART: Aye.

3 MR. HERMANCE: Aye.

4 CHAIRMAN SCALZO: Aye.

5 MR. POLITI: Aye.

6 MR. MASTEN: Aye.

7 MS. REIN: Aye.

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9 (Time noted: 9:06 p.m.)

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

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I, MICHELLE CONERO, a Notary Public

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I am in no way interested in the outcome of

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this matter.

16

IN WITNESS WHEREOF, I have hereunto

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set my hand this 30th day of June 2026.

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Michelle Conero

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MICHELLE CONERO

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