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

EFRAIN OYOLA  
425 Quaker Street, Wallkill  
Section 11; Block 1; Lot 19  
AR Zone  
----- X

Date: June 26, 2025  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: EFRAIN OYOLA

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

18 I would ask that if you have a  
19 cellphone, to please turn it off or  
20 put it on silent, as I am doing right  
21 now. When speaking, speak directly  
22 into the microphone as it is being  
23 recorded.

24 Roll call, please.

25 MS. JABLESNIK: Latwan Banks.

2                    MS. BANKS:    Present.

3                    MS. JABLESNIK:   Darrell Bell.

4                    MR. BELL:    Present.

5                    MS. JABLESNIK:   James Eberhart.

6                    MR. EBERHART:   Present.

7                    MS. JABLESNIK:   Greg Hermance.

8                    MR. HERMANCE:   Present.

9                    MS. JABLESNIK:   John Masten.

10                   MR. MASTEN:    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, David Donovan; from Code  
17                   Compliance, Joseph Mattina; and our  
18                   Stenographer, Michelle Conero.

19                   CHAIRMAN SCALZO:   Very good.   If  
20                   you could all please stand for the  
21                   Pledge.

22                   (Pledge of Allegiance.)

23                   CHAIRMAN SCALZO:   Our first  
24                   applicant this evening is Efrain Oyola,  
25                   425 Quaker Street, a special permit for a

2 home occupation. The applicant is  
3 applying to create a home occupancy to be  
4 a Federal licensed firearms dealer,  
5 online sales, storage and transactions of  
6 firearms. The applicant was approved for  
7 the same application at the September  
8 2020 meeting.

9 Siobhan, do we have mailings on  
10 this?

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

13 CHAIRMAN SCALZO: Twenty letters.

14 Good evening, sir.

15 MR. OYOLA: Good evening.

16 CHAIRMAN SCALZO: I know you look  
17 familiar to me because I've been here  
18 awhile. I recall the application the  
19 first time through.

20 If I could ask a couple of  
21 questions and then I'll let you add any  
22 commentary that you'd like. Are you  
23 appearing before us for this special  
24 permit because it is a requirement of the  
25 Federal -- the FFL to have you come back

2 every two years or three years or is this  
3 a modification?

4 MR. OYOLA: This is something new  
5 for me in the Town here. Normally the  
6 special use is done -- it's not a renewal  
7 process. The renewals are the FFL and  
8 the State dealer permit. When I came  
9 here in 2020, it was new for everybody.  
10 I was the first one to do the business in  
11 the village, so it was like a learning  
12 process for all of us. Today it's a new  
13 process as far as, for lack of a better  
14 term, the renewal to continue conducting  
15 business at the same location. Everything  
16 that happened back in 2020 still applies  
17 today.

18 The reason we're here today is  
19 because I got inspected, audited, like I  
20 normally would have, by the ATF. He  
21 asked me about the Town approvals. I  
22 said I expect to get some sort of  
23 notification if they decide to --

24 CHAIRMAN SCALZO: Discontinue your  
25 old permit?

2 MR. OYOLA: The renew process. If  
3 I remember correctly, and I have the  
4 minutes from the last hearing, we decided  
5 to make it a permanent process because  
6 the FFL and the dealer's permit is  
7 assigned to the premise itself. As long  
8 as I remain in the premise with the two  
9 permits, we're hoping that the permit  
10 will stay valid at the address. If I  
11 move, the permit stays with the address.  
12 It will just dissipate.

13 CHAIRMAN SCALZO: Thank you.

14 MR. DONOVAN: Sir, if I could ask  
15 you, you've been operating?

16 MR. OYOLA: Yeah. I've been  
17 operating here in the Town of Newburgh  
18 since 2020. I've been here the past  
19 seventeen years.

20 MR. DONOVAN: If I can for the  
21 Board, this is different than what we  
22 usually see. Usually we render decisions  
23 on applications for area variances, use  
24 variances or make interpretations. Every  
25 now and again we issue something called a

2 special use permit. A special use permit  
3 is in our code. It's actually in two  
4 different places.

5 This is a permitted home  
6 occupation, so we look at the home  
7 occupation provisions in our code. We  
8 also look at the special permit authority  
9 that we have in the code.

10 When this gentleman was here before  
11 -- we don't go through the five part  
12 balancing tests I should say. There are  
13 three issues that we take a look at.  
14 I'll just go through them, even though  
15 we're kind of reinventing the wheel,  
16 since there are some new Board Members.

17 What we first look at is whether  
18 the use proposed is of such a character,  
19 intensity, size or location that in  
20 general it will be in harmony and the  
21 orderly development of the neighborhood.  
22 We look at whether the issuance of the  
23 special permit will impair the use,  
24 enjoyment or value of adjacent  
25 residential properties. We look at

2 whether the nature and intensity of the  
3 requested special permit and the traffic  
4 generated is hazardous to the community.  
5 Those are the three things you look at in  
6 the special permit.

7 In the home occupation, and why  
8 there was actually a three-year period  
9 put in the 2020 decision, I recall at the  
10 time the approval from the Federal  
11 Government was for three years. Do I  
12 have that right?

13 MR. OYOLA: Yes. Every three years  
14 it gets renewed.

15 MR. DONOVAN: The feeling of the  
16 Board was to make it run with that three  
17 years. The home occupation provision of  
18 the code says it is appropriate that the  
19 Zoning Board of Appeals require, as a  
20 condition of granting all home occupation  
21 special permits, that the permit be for a  
22 finite period of time and cited the  
23 application by the applicant at the  
24 stated interval for renewal following  
25 review and hearing by the Zoning Board of



2 Appeals.

3 So I assume, Joe, that's why he's  
4 back, because of the three-year period.

5 MR. MATTINA: Yes.

6 MS. REIN: Shouldn't it have been  
7 done in 2023?

8 MR. DONOVAN: That I don't know. I  
9 don't know how soon after 2020 he got his  
10 permit. I don't know. We can't un-ring  
11 the bell. We're here tonight. That's  
12 why we're here, because there is a three-  
13 year period. You can figure out what  
14 you want to do with that, if anything,  
15 afterwards.

16 MR. BELL: So why did you not come  
17 back in?

18 MR. OYOLA: Back in 2020 we  
19 discussed the three-year period. That  
20 was the longest timeframe on the longest  
21 permit which is the FFL. It was also  
22 discussed that the finite amount could be  
23 anywhere from thirty days to thirty years  
24 depending on what the Board decides. As  
25 a learning process, the Board decided on

2 three years and then we'll proceed from  
3 there to see if basically everything  
4 worked out in those three years. I  
5 expected to have been notified whether I  
6 was going to come back in three years or  
7 presume that it would have been infinite  
8 as long as I maintained my permits active  
9 and up to date to the property.

10 The reason we're here today is  
11 because I recently was audited by the  
12 ATF, which is normal procedure. Every  
13 once in awhile the ATF will audit your  
14 books, your guns, your papers, so on and  
15 so forth. He asked me about the  
16 procedures here, was a decision made, was  
17 it temporary or permanent. I said I  
18 haven't heard about them yet. Usually no  
19 news is good news. Usually the Town and  
20 the County are pretty good at notifying  
21 when renewals are due.

22 I'm going to say my County permit  
23 -- State permit issued by the County is  
24 due in January. By the end of the month,  
25 if I don't get my packet, I reach out to

2 the sheriff's office. Usually six months  
3 beforehand I get the packet. The same  
4 thing with the FFL. It's not due until  
5 October 2026. Sometime in the beginning  
6 of 2026 I expect a packet from the FFL  
7 also to renew that.

8 This is a new process. We're  
9 basically working it out between  
10 yourselves and myself.

11 MR. BELL: I heard a lot. What I  
12 just heard was that since you didn't get  
13 notified in the three years, no news is  
14 good news, but when you got -- if you  
15 didn't get notified by the sheriff's  
16 department, you would have reached out.  
17 Why didn't you reach out when you didn't  
18 get --

19 MR. OYOLA: This is a new process  
20 for all of us. I didn't know who was  
21 going to notify me. I presumed I would  
22 have been notified by the Town. We're  
23 treading in new waters. This has never  
24 been done before. Starting in 2020 was  
25 the first renewal process. Any renewal,

2 I get notified by the appropriate agency.  
3 My State permit, I get notified by the  
4 sheriff's office, Orange County Sheriff's  
5 Office.

6 MS. REIN: The question was why  
7 didn't you come back in 2023 and look  
8 into it?

9 MR. BELL: Why didn't you look into  
10 it in 2023 when you didn't get notified?  
11 Now we're into -- we're into another two  
12 more years additional to that. We're in  
13 2025 June. This got approved in February  
14 or March of 2020?

15 MR. OYOLA: September.

16 MR. BELL: February --

17 MR. DONOVAN: September 2020.

18 MR. BELL: Okay.

19 MS. JABLESNIK: Actually, a couple  
20 months ago an officer from the ATF  
21 contacted me, asking me about the  
22 application, if all of the approvals were  
23 good. We saw that the permit application  
24 was never followed through with. As far  
25 as the Town knew, nobody followed through

2 with a home occupation. It just sat  
3 pending in the system and it was never  
4 closed out. A CO was never issued for  
5 the home occupation. That's what flagged  
6 the application to come back to the ZBA,  
7 because the permits were never followed  
8 through. So now this expired and he had  
9 to reapply again.

10 MS. REIN: Has it been running  
11 illegally all this time?

12 MS. JABLESNIK: Not with the ATF.  
13 Just with the Town permit process. For a  
14 home occupancy or a home occupation, you  
15 have to file for a permit. That was  
16 never closed out. He received his  
17 approvals through the ZBA and he was okay  
18 through the ATF, but never followed  
19 through with the permit to actually run  
20 his business.

21 MS. REIN: Who would have done  
22 that?

23 MS. JABLESNIK: He is supposed to  
24 call with an inspection and all of that  
25 to close the permit out. It happens all

2 the time.

3 MS. REIN: Shouldn't that precede  
4 this?

5 CHAIRMAN SCALZO: You were doing so  
6 well.

7 MR. DONOVAN: What was the question  
8 again?

9 MS. REIN: Shouldn't the approval  
10 of the permit precede what we're doing  
11 now?

12 MR. DONOVAN: You mean from the  
13 State and Federal Government?

14 MS. REIN: The Town.

15 MR. DONOVAN: No, because in order  
16 for them to approve the home occupation,  
17 they need this special permit granted by  
18 us.

19 MS. REIN: That comes first?

20 MR. DONOVAN: That comes first.

21 MS. REIN: Okay.

22 CHAIRMAN SCALZO: At this point I'm  
23 going to open it up to more questions  
24 from the Board. I'm going to go down to  
25 the other end here.

2 Ms. Banks, do you have any  
3 questions or comments regarding this  
4 application?

5 MS. BANKS: I think I'm a little  
6 confused. Was it illegally operating or  
7 not?

8 CHAIRMAN SCALZO: It sounds --  
9 Counsel, feel free to jump in. It sounds  
10 like in accordance with the ATF --

11 MR. DONOVAN: I think the answer to  
12 that is almost.

13 MR. OYOLA: To operate legally I  
14 would need two documents, which is the  
15 Federal firearms license through the ATF  
16 and the State license issued by the  
17 County from the State of New York. Both  
18 are up to date. Both I have. Both are  
19 renewed within accordance of the  
20 timelines of the documents. One is every  
21 two years, one is every three years.

22 MS. REIN: You still need the  
23 permit from the Town.

24 CHAIRMAN SCALZO: What I think I  
25 understand is you actually need three

2 things, the ATF, the County and the Town.

3 MR. DONOVAN: We're part of the  
4 Town. When this Board issued the special  
5 permit, you're like 95 percent there.  
6 The last 5 percent is to go to Code  
7 Compliance and they give you a  
8 certificate of compliance, Joe, I guess  
9 you would call it.

10 MR. MATTINA: You start with a  
11 building permit, we'll do a site  
12 inspection and then you get your  
13 certificate of compliance.

14 MR. BELL: That never happened?

15 MR. MATTINA: That never happened.

16 MR. OYOLA: There was nothing  
17 built.

18 MR. HERMANCENCE: They come in and  
19 inspect your business, how it's set up, I  
20 imagine a firearms lockers.

21 MR. MATTINA: Whatever we discussed  
22 here, storage and --

23 MR. DONOVAN: It's a verification.

24 MS. BANKS: Has that happened?

25 MR. OYOLA: No.



2 MR. DONOVAN: No. That's why I say  
3 almost. He got the special permit here.  
4 He got his Federal approval and his State  
5 approval. The last, kind of, piece of  
6 the puzzle --

7 MS. BANKS: Where the Town goes in  
8 and inspects it.

9 MR. EBERHART: Then it goes back to  
10 what Donna was saying. That's the step  
11 that is missing here. He now has to  
12 complete that.

13 MR. DONOVAN: Correct.

14 MR. BELL: Why wouldn't he go to  
15 Joe and get that done before he comes --

16 MR. DONOVAN: If I can. Because  
17 the special permit had a three-year life  
18 which is expired.

19 MR. BELL: It expired in '23.

20 MR. DONOVAN: Correct.

21 MR. BELL: That's what I was  
22 saying. There's a two-year gap. Okay.

23 MS. REIN: The permit has to be  
24 approved before Joe goes in?

25 MR. DONOVAN: Correct. Just like

2 we approve somebody to -- unless they're  
3 prior built. To put up a deck, to put up  
4 a pool, we approve them first and they go  
5 to Code Compliance with their building  
6 permit application.

7 MS. REIN: If we approve this, can  
8 we put in a condition that he has to be  
9 back here in three years rather than  
10 wait?

11 MR. BELL: We already did.

12 MS. REIN: If we put it as a  
13 condition, then his permit will no longer  
14 be valid if he doesn't show up.

15 MR. BELL: I see where you're  
16 going. You're saying if you violate by  
17 not coming back in the timeframe.

18 MS. REIN: Right. What's the point  
19 of giving him three years if he's not  
20 going to come back.

21 MR. DONOVAN: A condition of the  
22 approval in 2020 was this, pursuant to  
23 Section 185-48.6 B(1), the term of the  
24 special use permit is limited to three  
25 years commencing on September 30, 2020,

2 expiring September 30, 2023. Pursuant to  
3 the Town Code, the applicant must apply  
4 to the Zoning Board for renewal of the  
5 special permit authorized by this  
6 decision. So we did that.

7 MS. REIN: But it didn't work.

8 MS. BANKS: Why didn't it work?

9 MR. DONOVAN: It didn't work  
10 because he didn't apply for the building  
11 permit.

12 MS. REIN: He was supposed to apply  
13 in three years, but now it's been five  
14 years.

15 MS. BANKS: Okay.

16 MR. BELL: So he wouldn't have to  
17 go through the whole process all over  
18 again .

19 MR. OYOLA: I did do the whole  
20 process over again.

21 CHAIRMAN SCALZO: This is the  
22 process all over again.

23 MR. DONOVAN: I was going to  
24 suggest you hear from the public to see  
25 if there are any issues.

2           The idea behind a renewal, right,  
3           is, is there any reason not to renew the  
4           permit. We talk about precedent a lot.  
5           I'm going to tell you that unless the  
6           public is going to raise something like  
7           he didn't do what he was supposed to do,  
8           he did this wrong, there were eighty-seven  
9           people lined up outside when he said he  
10          was going to be mail order primarily, if  
11          you don't hear that, there's really no  
12          basis to deny it. If you want to impose  
13          the same condition, you can impose the  
14          condition.

15                 Just so this gentleman knows, I'm  
16          cheap but I'm willing to bet he didn't  
17          know he was supposed to do that.

18                 MR. OYOLA: I would have been here.  
19          I've been doing this for twenty years.

20                 MR. DONOVAN: You could make that a  
21          condition as well, if you're so inclined.

22                 MS. REIN: If he's not going to  
23          adhere to it, what's the point? There  
24          has to be consequences if he's not going  
25          to adhere to it.

2 MS. BANKS: I agree.

3 MR. DONOVAN: This Board is not in  
4 charge of consequences. That's what Code  
5 Compliance does.

6 MS. REIN: I'm not comfortable with  
7 this.

8 MS. BANKS: Can we hold off on this  
9 a little bit?

10 MR. EBERHART: Why would we need to  
11 hold off?

12 MS. BANKS: Because to Donna's  
13 point, we set a condition before and he  
14 didn't follow through with it, right.  
15 Can we talk about this a little bit? It  
16 is like new.

17 CHAIRMAN SCALZO: We did, but  
18 Counsel did just remind us that when it  
19 comes to enforcement and compliance,  
20 that's not our position. That falls on  
21 Code Compliance.

22 MS. BANKS: Okay.

23 MS. REIN: Whose responsibility is  
24 it to -- is it our responsibility to  
25 inform the applicant that he has to

2 renew?

3 MR. DONOVAN: We did.

4 CHAIRMAN SCALZO: In 2020.

5 MS. REIN: In 2020 you put that in  
6 the decision. When the time is up, when  
7 it comes to 2023, are we responsible for  
8 getting in touch with the applicant?

9 MR. DONOVAN: No. Code Compliance  
10 is, assuming --

11 MS. REIN: But Code Compliance  
12 never --

13 CHAIRMAN SCALZO: I don't know if  
14 they have a mechanism to do that. They  
15 don't have a little red flag that goes up  
16 that says notify this fellow, much like  
17 the ATF does.

18 MS. JABLESNIK: Also, his permit  
19 was never issued. As far as Code  
20 Compliance knew, he wasn't operating  
21 because he didn't closeout the permit.

22 MR. BELL: But he was operating  
23 without the permit.

24 MS. JABLESNIK: Right. I'm just  
25 saying they wouldn't be alerted because

2 as far as they knew --

3 CHAIRMAN SCALZO: Let me ask you,  
4 sir. When is your next renewal up?

5 MR. OYOLA: For?

6 CHAIRMAN SCALZO: Either or.

7 MR. OYOLA: The newest one is due  
8 in January of 2026 which is the State  
9 dealers and gunsmith license issued by  
10 the State. The next one, which is the  
11 big one, the Federal firearms license, is  
12 renewed in October of 2026.

13 CHAIRMAN SCALZO: That's only four  
14 months from now.

15 MR. OYOLA: The first one.

16 CHAIRMAN SCALZO: A year and four  
17 months from now. The frequency of that  
18 is?

19 MR. OYOLA: The State is every two  
20 years. The Federal is every three years.  
21 Basically every year I'm going through  
22 some sort of renewal process with the  
23 State or the Feds. This year it just  
24 happened to be they both renewed in the  
25 same year, like six months, seven months

2 apart.

3 MS. REIN: Can we change the  
4 condition then to have this renewal, so  
5 everybody remembers, be annual?

6 MR. EBERHART: I think that would  
7 be kind of onerous on him.

8 CHAIRMAN SCALZO: Where I was  
9 leaning is if we were to have it  
10 parallel --

11 MR. EBERHART: Commensurate with  
12 the other.

13 MR. DONOVAN: That was the idea in  
14 2020.

15 CHAIRMAN SCALZO: It would be a  
16 reminder to the applicant, hey, it's time  
17 to renew. Not only do you have to do the  
18 State, the County or whatever it is, or  
19 the ATF. We'll go with the one that's  
20 every two years just to keep you on the  
21 straight line there. That's just a  
22 suggestion on my part, plus it's the one  
23 that's coming up.

24 MS. REIN: I like that.

25 MR. OYOLA: Back in 2020 you also



2 discussed we would start with the three  
3 years. They based it on the FFL, which  
4 is the longest one, and then they would  
5 review or bring up the possibility of  
6 extending it if there were no significant  
7 changes. Everything is exactly the same  
8 as it was back in 2020.

9 CHAIRMAN SCALZO: Clearly there's a  
10 disconnect there. The meeting minutes  
11 and the decision which you were provided  
12 a copy of --

13 MR. OYOLA: I have a copy of the  
14 minutes. I don't have a copy of the  
15 decision. I did a FOIA request for the  
16 minutes. I never got anything from the  
17 Town since September of 2020. I sent a  
18 FOIA request getting ready for this  
19 hearing.

20 CHAIRMAN SCALZO: Okay.

21 MS. REIN: Wouldn't he have gotten  
22 our decision?

23 CHAIRMAN SCALZO: Typically they're  
24 mailed out. I can't help you beyond  
25 that.

2 MR. OYOLA: According to the  
3 minutes, there was an approval on the  
4 spot. Everybody voted and it was an  
5 approval. That was basically the last  
6 communication I received from the Town,  
7 was in September 2020 regarding this  
8 issue right here.

9 CHAIRMAN SCALZO: Okay. I think  
10 we're kind of all dancing around the same  
11 topics here.

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

16 MR. BAUZA: My name is John Bauza.  
17 I live on 6 Valentine Road in the Town of  
18 Newburgh.

19 He seems like a very responsible  
20 man. I'm not questioning what he's  
21 doing, all the safety precautions that  
22 he's taking. I just have to express my  
23 opinion that if that was in my  
24 neighborhood, I would feel very  
25 uncomfortable about having somebody

2 selling and using guns in their backyard  
3 there.

4 I looked on Google Maps and he has  
5 neighbors on both sides.

6 CHAIRMAN SCALZO: He doesn't fire  
7 the firearms there.

8 MR. BAUZA: No, but, you know, I  
9 would still feel very uncomfortable about  
10 it. I just wanted to let you know how I  
11 would feel about it if that was in my  
12 backyard.

13 CHAIRMAN SCALZO: Relative to this  
14 gentleman's property --

15 MR. BAUZA: I know he's in  
16 Wallkill.

17 CHAIRMAN SCALZO: It's still Town  
18 of Newburgh.

19 MR. BAUZA: I just wanted to voice  
20 my opinion and let you know how I felt  
21 about it. Thank you very much.

22 CHAIRMAN SCALZO: Are there any  
23 other members of the public that wish to  
24 speak about this application?

25 (No response.)

2 CHAIRMAN SCALZO: All right. I'm  
3 going to look back to the Board. We  
4 heard a couple of comments here. We are  
5 disappointed the applicant, A, didn't  
6 closeout the permit; and B, didn't come  
7 back before us when the decision said he  
8 was supposed to.

9 Trying to install some safeguards  
10 into that, and we still need to go  
11 through a couple different things here,  
12 but my suggestion of having this coincide  
13 with the most frequent renewals makes a  
14 lot of sense to me. However, there are  
15 six Board Members here. It will also  
16 kind of -- I'm an older person now and I  
17 don't remember things as well as I used  
18 to, but at least give him the benefit of  
19 being able to tie a couple of things  
20 together, knowing when one thing is up,  
21 the other is as well.

22 MR. EBERHART: I'm in agreement.

23 MS. REIN: Would that be a  
24 condition?

25 CHAIRMAN SCALZO: We can absolutely

2 make that a condition.

3 MS. REIN: Let's do it.

4 CHAIRMAN SCALZO: Counsel, this is  
5 where -- Ms. Banks, do you have any  
6 comments to that?

7 MS. BANKS: No.

8 CHAIRMAN SCALZO: One last time  
9 here, are there any members of the public  
10 that wish to speak about this?

11 (No response.)

12 CHAIRMAN SCALZO: Let's  
13 procedurally take care of one aspect of  
14 this, which is to ask the Board for a  
15 motion to close the public hearing.

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

18 MR. EBERHART: Second.

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

22 MS. BANKS: Aye.

23 MR. EBERHART: Aye.

24 MR. HERMANCENCE: Aye.

25 CHAIRMAN SCALZO: Aye.

2                    MR. BELL:    Aye.

3                    MR. MASTEN:   Aye.

4                    MS. REIN:    Aye.

5                    CHAIRMAN SCALZO:   Those opposed.

6                    (No response.)

7                    CHAIRMAN SCALZO:   Very good.

8                    Counsel, how do we --

9                    MR. DONOVAN:   My suggestion to the  
10                   Board is that you treat this as a  
11                   renewal.   You had gone through five years  
12                   ago -- not individually, but Darrin and  
13                   Darrell were both here.   That it be a  
14                   renewal so it wouldn't have to go through  
15                   SEQRA.

16                   CHAIRMAN SCALZO:   Mr. Masten was  
17                   here, too.

18                   MR. DONOVAN:   I didn't see his  
19                   name.   Sorry, John.

20                   If the Board is so inclined, you  
21                   modify the condition for the frequency of  
22                   the renewal.   I understand what you're  
23                   trying to do.

24                   CHAIRMAN SCALZO:   Is there any  
25                   discussion on this?

2 MR. BELL: No.

3 CHAIRMAN SCALZO: Counsel, you said  
4 we don't have to go through the five  
5 factors here?

6 MR. DONOVAN: No. This is a  
7 special permit, not a variance. You do  
8 not go through the five factors. You've  
9 gone through -- when you issued it  
10 before, you went through the special  
11 permit factors and you went through  
12 SEQRA. He's been operating whether he  
13 got his permit or not -- well, he didn't  
14 get a permit. There's no reason, unless  
15 there's anything from the public,  
16 anything objective for you to change  
17 anything, then I would treat this as a  
18 renewal, which means you don't have to go  
19 through this, but you can impose new or  
20 different conditions on your renewal.

21 CHAIRMAN SCALZO: Thank you,  
22 Counsel.

23 Because this is a matter of record  
24 and you gave testimony, if you will, that  
25 you looked through the meeting minutes

2 from the previous meeting, sir, if it was  
3 a condition of this that you were to  
4 renew your permit and closeout the permit  
5 so to actually have a real permit in  
6 hand, which includes visiting the Code  
7 Compliance Department, having them come  
8 out and inspect the premises, whether  
9 there's any changes or not, that's a  
10 condition that may be imposed upon you.  
11 Do you understand what I'm saying when  
12 I'm asking this?

13 MR. OYOLA: Yes, I do understand.  
14 I don't have any issues with that. We  
15 need a procedure in place, because when I  
16 left last time, when I walked out of the  
17 meeting, that was the end of it. My next  
18 step -- I presumed I was completely done.  
19 I didn't realize there may or may not  
20 have been another process to follow, to  
21 go back to Code Compliance or whatever  
22 the case would be. When I came this year  
23 to redo the process again, it took me a  
24 couple of visits. Between myself and  
25 your office, we weren't really sure what



2 to do. Originally they made me fill out  
3 a building permit, pay a fee for a  
4 building permit, submit it, and that was  
5 denied because I wasn't really building  
6 anything. When I went back the second  
7 time, they made me fill out the paperwork  
8 you have in front of you now, which is  
9 what I originally filled out before. It  
10 was a learning thing. I wasn't sure what  
11 they wanted. They weren't sure what they  
12 needed from me. We discussed back in  
13 2020, when this was a learning process,  
14 it was the first time for the Town. It  
15 was the first time for me in this Town.  
16 I've done it before in Walden. In Walden  
17 there was no renewal. It was approved,  
18 and as long as I maintained my two  
19 licenses, it worked out fine. Here it  
20 was a little bit different. We weren't  
21 sure on either end what was the next  
22 procedure. I presumed I complied with  
23 everything that was required.

24 MS. REIN: I have a question for  
25 Dave. Since this was approved in 2020,

2 can we have him go and get the permit,  
3 make sure everything is okay before --

4 MR. BELL: I was just writing that  
5 down.

6 MR. DONOVAN: That's a question for  
7 Code Compliance.

8 MR. MATTINA: I would think no. I  
9 would need the special use permit first.  
10 My building permit is going to be based  
11 off of your approval.

12 MS. REIN: He has an approved use  
13 permit.

14 MR. MATTINA: It's expired.

15 MR. BELL: Does he have to get  
16 another one?

17 MR. MATTINA: That's why he's here.

18 CHAIRMAN SCALZO: I admire when  
19 applicants represent themselves in front  
20 of our Board. It's not easy. Others  
21 bring in professional representation. In  
22 most cases the professional representation  
23 will remind them of the closing steps for  
24 these things. Hats off to you for  
25 representing yourself, mostly succeeding

2 through the process the last time  
3 here.

4 Why I was trying to at least  
5 include in the meeting minutes that  
6 the next steps are X, Y and Z for  
7 you, at least that will help you,  
8 I'll say, close it out.

9 MR. OYOLA: For this meeting now?  
10 Not for five years ago?

11 CHAIRMAN SCALZO: That's gone now.

12 MR. OYOLA: Yeah. So we both  
13 understand the procedure, what's the next  
14 process? What do I need to do next?

15 Like I said before, five years ago  
16 I was satisfied. If there's something  
17 else, let me know and I'll take care of  
18 it.

19 CHAIRMAN SCALZO: I just wanted to  
20 have you understand clearly that the next  
21 step is not just to go home and say I got  
22 it. The next step is actually to reach  
23 back out to the Building Department and  
24 make an appointment with the Code  
25 Compliance guys to check out what you've

2 got going on there to make sure you're in  
3 compliance with the permit for the Town.  
4 I know you must be in compliance with the  
5 AFT and the County, otherwise they  
6 wouldn't have renewed your permits as  
7 well.

8 Just to close us out here at the  
9 Town of Newburgh, I just want you to  
10 understand clearly that you're going to  
11 need to close the permit out for us to --  
12 for the next time we renew.

13 MR. OYOLA: My only question is do  
14 I go to them, do they send me something,  
15 an appointment?

16 CHAIRMAN SCALZO: For the closing  
17 of this particular action, you're going  
18 to need to reach out, after tonight's  
19 meeting, to Siobhan. Siobhan will guide  
20 you.

21 Is that all right?

22 MS. JABLESNIK: Sure. Yes, of  
23 course.

24 MR. OYOLA: They're very helpful,  
25 but --

2 MR. DONOVAN: Watch what you say.

3 MR. OYOLA: They were very helpful.  
4 If I needed something, they were helpful  
5 and tried explaining what they could as  
6 far as what they knew. It's a learning  
7 process for both of us. You tell me what  
8 you need and when you need it --

9 MR. BELL: You're going to do it.

10 MR. OYOLA: If I can deal with the  
11 Feds and the State and the County,  
12 dealing with the Town, it's right down  
13 the road, I'll take care of it.

14 CHAIRMAN SCALZO: I'm sure we're a  
15 lot less restrictive than the other  
16 agencies you deal with.

17 Moving on. Does anybody have any  
18 conditions they want to impose upon this  
19 application before we move towards a  
20 decision?

21 MR. EBERHART: Other than what we  
22 were talking about before, making it  
23 commensurate with --

24 CHAIRMAN SCALZO: Sir, the one that  
25 happens most frequently is the County?

2 MR. OYOLA: The State permit issued  
3 by the County, yes. It's every two  
4 years. It's always in January. The end  
5 of January always, two years apart.

6 CHAIRMAN SCALZO: It's due this  
7 January for you?

8 MR. OYOLA: Yes.

9 CHAIRMAN SCALZO: That would be  
10 January of 2026.

11 MR. OYOLA: Yes.

12 CHAIRMAN SCALZO: My recommendation  
13 here is that because it's not going to be  
14 three years by then, this time we're  
15 going to give him a six-month break and  
16 say your next one is going to be due in  
17 thirty months and then subsequently every  
18 two years after that to coincide with  
19 your County permit.

20 MR. OYOLA: The next one would be  
21 January 2028?

22 CHAIRMAN SCALZO: Thirty months.

23 MR. OYOLA: Basically we're meshing  
24 it together.

25 CHAIRMAN SCALZO: Yes.

2 MR. OYOLA: That sounds fair.

3 CHAIRMAN SCALZO: I'm trying to  
4 help you keep it straight.

5 MR. OYOLA: That sounds fair.

6 MR. HERMANC: When it comes time  
7 to renew, you know you have to renew here  
8 and with the County.

9 MR. OYOLA: I guess I deal with the  
10 building code.

11 MR. DONOVAN: If I may make another  
12 suggestion as a condition, just so  
13 there's clarity here. You may want to  
14 say compliance with home occupations from  
15 the Code Compliance Department so there's  
16 no question that he needs that.

17 CHAIRMAN SCALZO: Thank you.

18 MR. EBERHART: Makes sense.

19 CHAIRMAN SCALZO: Counsel, you're  
20 writing the decision. I like what you  
21 said.

22 MR. DONOVAN: When I go to write  
23 it, I'm not going to remember.

24 CHAIRMAN SCALZO: Counsel, do we go  
25 to a vote?

2 MR. DONOVAN: It would be a motion  
3 for renewal of the special permit with  
4 the two conditions you just outlined, if  
5 that's acceptable to the Board.

6 CHAIRMAN SCALZO: I'll look to the  
7 Board for that motion.

8 MS. REIN: I'll make that motion.

9 MR. MASTEN: Second.

10 CHAIRMAN SCALZO: We have a motion  
11 from Ms. Rein. We have a second from  
12 Mr. Masten.

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

15 MS. JABLESNIK: Ms. Banks.

16 MS. BANKS: No.

17 MS. JABLESNIK: Mr. Bell.

18 MR. BELL: Yes.

19 MS. JABLESNIK: Mr. Eberhart.

20 MR. EBERHART: Yes.

21 MS. JABLESNIK: Mr. Hermance.

22 MR. HERMANCE: Yes.

23 MS. JABLESNIK: Mr. Masten.

24 MR. MASTEN: Yes.

25 MS. JABLESNIK: Ms. Rein.



2                    MS. REIN:    Yes.

3                    MS. JABLESNIK:   Mr. Scalzo.

4                    CHAIRMAN SCALZO:   Yes.

5                    The motion is carried.

6                    You have a little work to do, but  
7 reach out to Siobhan and she'll guide  
8 you.

9                    MR. OYOLA:    Sounds good.

10                   CHAIRMAN SCALZO:   Thank you.

11                   MR. OYOLA:    Thank you very much.

12

13                   (Time noted:   7:35 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  
for and within the State of New York, do  
hereby certify:

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10

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

11

12

13

14

15

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.

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*Michelle Conero*

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MICHELLE CONERO

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

ROSEMARIE WRIGHT  
  
21 Willella Place, Newburgh  
Section 73; Block 1; Lot 2.1  
R-3 Zone

----- X

Date: June 26, 2025  
Time: 7:35 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: FRANK VALDINA

----- X

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

2                   CHAIRMAN SCALZO:   The second  
3                   applicant this evening is Rosemarie  
4                   Wright, 21 Willella Place, seeking an  
5                   interpretation of the ordinance to keep a  
6                   5 x 8 front deck on a newly constructed  
7                   single-family residence.  If the Board  
8                   votes area variances are required, then  
9                   the applicant then requests an area  
10                  variance of the minimum front yard  
11                  setback to keep the 5 x 8 front deck.

12                  Siobhan, do we have mailings on  
13                  this?

14                  MS. JABLESNIK:   This applicant  
15                  mailed sixty letters.

16                  CHAIRMAN SCALZO:   6-0.  I know who  
17                  one of them is.  This guy.

18                  Who do we have with us?

19                  MR. VALDINA:   Frank Valdina Junior  
20                  representing Rosemarie Wright, who  
21                  happens to be my daughter.

22                  The reason we're here before the  
23                  Board is we received notification from  
24                  the Building Department.  In my  
25                  professional interpretation, this is a

2 landing. As set forth in the State  
3 Code, it's a landing and not a deck.

4 The first reference we're aware  
5 of was that Code Compliance indicated  
6 it was a terrace. It was then  
7 revised to become a deck. The size  
8 set forth in the denial of 5 x 7 is  
9 actually 6 x 6. It is part of the  
10 stairs going into the front of the  
11 building. Originally the steps were  
12 to come straight down, but in  
13 discussion with the builder and the  
14 looks of the house, it was decided to  
15 put a landing and some of the steps  
16 close to the driveway. As set forth  
17 in the State Building Code, it's  
18 referred to as a landing. That's our  
19 position. We differ with Code Compliance  
20 as to the definition.

21 The Building Code, as you're  
22 probably aware, in zoning, open steps  
23 are not subject to setback requirements.

24 CHAIRMAN SCALZO: This is certainly  
25 an interesting application. In my

2 thirteen years on the Board, I've never  
3 had anybody take any photocopies of  
4 dictionary definitions for me.

5 MR. VALDINA: I'm trying to prove  
6 my point.

7 CHAIRMAN SCALZO: Going to the  
8 Zoning Code 185-18 C, yard requirements.  
9 "Yard requirements shall not apply to,"  
10 and you have highlighted here "chimneys,  
11 open trellises, unroofed steps or  
12 terraces not higher than one foot from  
13 the ground level."

14 I got the unroofed steps is what's  
15 circled. Was it your intent to circle  
16 that?

17 MR. VALDINA: Yes.

18 CHAIRMAN SCALZO: The rest of the  
19 sentence says, "Or terraces not higher  
20 than one foot from ground level."

21 MR. VALDINA: That says terraces  
22 not higher than one foot. I'd been  
23 through that before with Code Compliance  
24 years ago.

25 CHAIRMAN SCALZO: I'm a big fan of

2           the grammatical aspect of things.

3           Don't you think, Counsel, if it  
4           says unroofed steps comma or terraces not  
5           higher than -- there's a comma there.

6           MR. DONOVAN: There's not a comma.  
7           There's a comma after -- it's "Open  
8           trellises, unroofed steps or terraces not  
9           higher than one foot."

10          MR. VALDINA: Terraces not higher  
11          than one foot.

12          CHAIRMAN SCALZO: Unroofed steps or  
13          terraces. I lump those together only  
14          because if you give me the definition and  
15          make me read it, I'm going to ask you  
16          questions about it.

17          MR. VALDINA: If you had an  
18          unroofed step and it went from the house  
19          all the way out to the street, 50 feet,  
20          you wouldn't need it, it would comply.

21          MR. MATTINA: Yes.

22          MR. VALDINA: Unroofed steps are  
23          not subject to setback requirements.

24          CHAIRMAN SCALZO: We got an  
25          agreement out of Joe.

2                   MR. DONOVAN:   So why --

3                   MR. MATTINA:   Because it goes to a  
4                   second deck.   It doesn't go unroofed  
5                   steps all the way to the property line.  
6                   It goes to the second landing.   It goes  
7                   from a landing to a landing.

8                   MR. VALDINA:   Look at the State  
9                   Code.   Steps, interior, exterior or  
10                  landing.   It doesn't say deck.   It says  
11                  landing.

12                  MR. BELL:   You consider this a  
13                  landing?

14                  MR. DONOVAN:   He considers it a  
15                  deck.

16                  MR. MATTINA:   It doesn't meet the  
17                  requirements of the minimum required  
18                  front yard setback in our Zoning Code,  
19                  not the New York State Building Code.

20                  MR. DONOVAN:   Measured from where,  
21                  Joe?   Measured from the second -- the  
22                  lower deck?

23                  MR. MATTINA:   From the lower deck.

24                  MR. DONOVAN:   It's not a landing,  
25                  it's a deck?



2 MR. MATTINA: Correct. The  
3 definition doesn't really matter because  
4 our definition would require setbacks  
5 with an open, unoccupied space from the  
6 ground to the sky. You can call it a  
7 deck, a landing, whatever you want.

8 CHAIRMAN SCALZO: It's connected to  
9 the ground is the issue?

10 MR. MATTINA: Correct. You don't  
11 have your unoccupied ground area.

12 MR. VALDINA: It's unoccupied.

13 MR. MATTINA: We went through this  
14 off of Hilltop behind the ambulance  
15 place. The guy had three of them and  
16 they came down.

17 CHAIRMAN SCALZO: You provided a  
18 survey map showing 31 plus or minus feet.  
19 Required is 40.

20 MR. VALDINA: Yes.

21 CHAIRMAN SCALZO: One of the  
22 references being lot 1 from the filed map  
23 of the Galli and Valdina lot line change.  
24 I thought I saw with the Galli lot next  
25 door, his front steps from the front

2 porch to the property line is 38 feet.  
3 It's not quite 40 either.

4 MR. VALDINA: That's correct. The  
5 garage is 10 feet off the front yard.  
6 The house may be roughly the same. It's  
7 just to the west of this.

8 MR. BELL: I saw it. We went by.

9 CHAIRMAN SCALZO: This has nothing  
10 to do with your application, but you're  
11 calling it a single-family?

12 MR. VALDINA: It is.

13 CHAIRMAN SCALZO: There are a lot  
14 of accesses to the upper floor and lower  
15 floor for a single-family.

16 MR. VALDINA: There's three to the  
17 lower level, there's one downstairs on  
18 the south side.

19 CHAIRMAN SCALZO: And two driveways.

20 MR. VALDINA: Well, driveways,  
21 parking areas. It doesn't exceed code.

22 CHAIRMAN SCALZO: It's an  
23 observation on my part.

24 MR. BELL: That's the same  
25 observation I had. This is not going to

2               turn into a rental with rooms?

3               MS. REIN: I thought it was a  
4               rental.

5               MR. BELL: No. It's a single-  
6               family. There are a lot of accesses.

7               MR. MASTEN: They're all single-  
8               family.

9               CHAIRMAN SCALZO: The rub is it's  
10              R-3 there. It wouldn't be a problem  
11              necessarily if he met some sort of  
12              criteria for it to be a multi-family.

13              MR. VALDINA: It's not multi-  
14              family. It's single-family.

15              CHAIRMAN SCALZO: I've said my  
16              peace. I'm going to look to my left.  
17              I'll make it that way shortly.

18              Ms. Rein, questions or comments on  
19              this application.

20              MS. REIN: I'm very confused. I  
21              don't have any questions or comments.

22              CHAIRMAN SCALZO: Okay. We can  
23              come back because we're going to have  
24              ample opportunity.

25              Mr. Masten.

2                   MR. MASTEN: I have no questions on  
3                   it.

4                   CHAIRMAN SCALZO: How about you,  
5                   Mr. Bell.

6                   MR. BELL: None right now.

7                   CHAIRMAN SCALZO: Not at the  
8                   moment.

9                   Mr. Hermance.

10                  MR. HERMANCE: Well, I'm interested  
11                  as to why he couldn't have done a deck on  
12                  the front and then just stairs off the  
13                  one side, why you needed the two. You  
14                  have the upper landing and the lower  
15                  landing.

16                  MR. VALDINA: The upper landing is  
17                  access to the front door. Coming from  
18                  the driveway to the front door, it was  
19                  more practical and pleasing to come part  
20                  way to the road and branch off and go to  
21                  the driveway, which is how it is  
22                  constructed.

23                  CHAIRMAN SCALZO: I have a question  
24                  for Mr. Mattina. Mr. Mattina, typically  
25                  on a new build application, the entrances,

2 decks, stairs, does that typically appear  
3 on the proposed site plan for what  
4 they're going to do? I'm kind of curious  
5 how we landed here.

6 MR. MATTINA: What happened is they  
7 raised the house out of the ground. Once  
8 they raised it out of the ground, you  
9 couldn't have a run of stairs to get you  
10 safely to the ground. They had to build  
11 a second platform.

12 CHAIRMAN SCALZO: They're modifying  
13 the permit. I'm just curious how we  
14 landed here without it getting to you  
15 first so you could say hold it.

16 MR. MATTINA: We did say hold it.

17 CHAIRMAN SCALZO: And he built it  
18 anyway?

19 MR. VALDINA: No.

20 MR. EBERHART: Now it makes sense.

21 MR. VALDINA: It was already built.  
22 It was already built.

23 CHAIRMAN SCALZO: Now I'm going to  
24 go back to you, sir, and ask you this.  
25 It was already built but you needed a

2 permit. You didn't think you needed a  
3 permit?

4 MR. VALDINA: I'm going under the  
5 impression, like I said, the State  
6 Building Code refers to a landing, open  
7 steps, it does not meet setback  
8 requirements. The landing is constructed  
9 the same way the landing is off the north  
10 entrance. I furnished the Building  
11 Department with the size of it, the  
12 structure --

13 MR. BELL: The north entrance comes  
14 down. It's not the same.

15 I didn't mean to interrupt you. Go  
16 ahead.

17 MR. VALDINA: The building was  
18 raised because we hit rock and there was  
19 groundwater.

20 CHAIRMAN SCALZO: I apologize.  
21 Thank you for straightening me out,  
22 Mr. Mattina.

23 Mr. Eberhart.

24 MR. EBERHART: My issue was this  
25 discrepancy should have been caught

2 originally if there was a change in the  
3 plan. In effect, you're asking for  
4 forgiveness for a change that they made.

5 CHAIRMAN SCALZO: You've been here  
6 long enough, Mr. Eberhart. How many  
7 applicants come in here looking for  
8 forgiveness rather than permission? It's  
9 nothing new.

10 Ms. Banks.

11 MS. BANKS: I think I'm confused.  
12 There was an original plan that was  
13 submitted, it was kind of rejected, they  
14 were told to stop.

15 CHAIRMAN SCALZO: I'm not sure of  
16 that.

17 MR. MATTINA: What happened is the  
18 building permit was issued with a 6 x 4,  
19 or whatever, front deck. During the  
20 process of building the house, it was  
21 raised out of the ground. By the time we  
22 went back to do a final, there were two  
23 decks.

24 MS. REIN: And what happened with  
25 that?

2                    MR. MATTINA: We stopped them and  
3                    here we are. We stopped the CO  
4                    inspection. There are no more  
5                    inspections. He needs to get a variance  
6                    and then a permit for the front deck.

7                    CHAIRMAN SCALZO: Ms. Banks, continue.

8                    MS. BANKS: Forgive me. I'm kind  
9                    of new. We said stop, and then in the  
10                   build out process, I guess this is a  
11                   question for you, were you looking to the  
12                   Building Code and moved forward based on  
13                   the Building Code? How do we get to two  
14                   decks? I guess I'm a little confused by  
15                   that.

16                   MR. VALDINA: The first one, which  
17                   is against the house, meets the setback  
18                   requirement. It was built that way to  
19                   make sure we didn't encroach on the front  
20                   yard. During the course of construction  
21                   we hit rock and groundwater, so the house  
22                   was raised which increased the number of  
23                   steps needed to get to the ground. We  
24                   came off the front landing. If you want  
25                   to call it a deck since it meets the



2               zoning, I don't care. We come down part  
3               way, then to make it more convenient for  
4               guests to get to the front door, there  
5               was a landing built and steps built to  
6               the left to the driveway.

7               MS. REIN: But the plans were not  
8               submitted. The changes were not  
9               submitted. Correct?

10              MR. VALDINA: There was correspondence,  
11              and I'm sort of -- most of it was between  
12              Code Compliance and the builder. The  
13              Building Department did request the  
14              structural design of the landing which  
15              was submitted to them. That's the last  
16              I ever heard from that aspect. That ends  
17              that question there as far as the  
18              configuration. By that time it was  
19              already built.

20              MS. REIN: You heard after that  
21              from Code Compliance that they weren't  
22              issuing a CO?

23              MR. VALDINA: No. What I heard was  
24              they would not do the CO inspection until  
25              this issue was resolved. Again, that's

2 coming from my builder. My daughter was  
3 not included within the conversations, or  
4 myself, with them. The information they  
5 requested was furnished to them and, like  
6 I say, I assumed it was approved because  
7 we never heard anything back from them.

8 The key is, in my mind, whether  
9 it's a landing, which under the State  
10 Code is part of the stairs uncovered,  
11 therefore under the Town Code exempt from  
12 the front yard setback.

13 MS. REIN: Joe, you weren't aware  
14 of this until you went and looked at it.  
15 Correct?

16 MR. MATTINA: Inspector Campbell  
17 did. He went out maybe three months ago  
18 and he said we have an issue.

19 CHAIRMAN SCALZO: Mr. Mattina, do  
20 you have a submission log that you can  
21 verify when the structural diagrams for  
22 the landing, when the modification was  
23 made? Do you have a --

24 MR. MATTINA: I do all the  
25 modifications. I have not gotten a

2 modification. It was noticed about  
3 three months ago. We have the  
4 worksheets. Jim would have documented  
5 on the worksheets when it was discovered.

6 CHAIRMAN SCALZO: I don't want to  
7 know when it was discovered. The  
8 applicant is claiming that they submitted  
9 the drawings for the landing --

10 MR. MATTINA: I never got drawings,  
11 even to this day.

12 MR. VALDINA: That's not what I  
13 said. I said we submitted the  
14 information that Code Compliance wanted  
15 pertaining to that.

16 CHAIRMAN SCALZO: I misunderstood.  
17 Thank you.

18 MS. REIN: To the original landing?

19 MR. VALDINA: The one that's there  
20 now.

21 CHAIRMAN SCALZO: The one that's  
22 attached to the house?

23 MR. VALDINA: The one we're  
24 discussing. They asked for information  
25 pertaining to the design of that. That

2 information was submitted to them and we  
3 never heard anything back from them.

4 MS. BANKS: This is the part I'm  
5 trying to understand. When you didn't  
6 hear anything back, you just kind of  
7 continued?

8 MR. VALDINA: It was already  
9 constructed, so we assumed at that point  
10 it was accepted.

11 CHAIRMAN SCALZO: I'm putting the  
12 pieces together now.

13 MR. BELL: The original plans were  
14 supposed to be coming straight off the  
15 front?

16 MR. MATTINA: The original plans  
17 had one upper deck.

18 CHAIRMAN SCALZO: The original  
19 plans also didn't anticipate that they  
20 would hit rock or groundwater.

21 MR. MATTINA: Correct.

22 MR. BELL: I thought that was rock  
23 or groundwater building the house, not  
24 the deck.

25 MR. VALDINA: That's what raised

2               the house.

3               CHAIRMAN SCALZO: The plans showed  
4               a shorter set of stairs attached to the  
5               house because they only needed, I'll say,  
6               six or seven. Once they had to elevate  
7               it out of the ground, they had to --

8               MS. REIN: But they didn't go to  
9               Code Compliance with it.

10              CHAIRMAN SCALZO: No.

11              MS. REIN: They just built it.

12              MR. HERMANCE: You were aware of  
13              the setback for the deck coming off the  
14              house originally?

15              MR. VALDINA: Yes. That is to the  
16              house.

17              MR. HERMANCE: In consideration of  
18              that, I would have thought you would have  
19              wanted to go north to another landing,  
20              then you could bring the stairs straight  
21              out and then bring a sidewalk around to  
22              those.

23              MR. VALDINA: The steps would be in  
24              front of the window. It wasn't conducive  
25              to attach it. The one on the north side

2 is. On the north side there's a full set  
3 of steps.

4 MR. HERMANCE: That's what I was  
5 thinking you would have done with the  
6 front.

7 MR. VALDINA: From that landing all  
8 the way down?

9 MS. REIN: Knowing all this, you  
10 knew where everything was supposed to be  
11 and you didn't go to Code Compliance with  
12 it? You just built it?

13 MR. VALDINA: Again, I'm still --  
14 it was based upon my interpretation. The  
15 information they requested pertaining to  
16 the landing was furnished to them.

17 MS. REIN: I mean no disrespect,  
18 but that sounds like a back-around. It's  
19 a hail Mary there, you know. Let's find  
20 something that will complete the  
21 narrative and make the narrative okay.  
22 That's just my opinion.

23 MS. BANKS: I agree.

24 CHAIRMAN SCALZO: All right. At  
25 this time I'm going to open it up. Do

2           any members of the public wish to speak  
3           about this application?

4                   (No response.)

5           CHAIRMAN SCALZO:  It doesn't look  
6           so.

7                   I'll go to the Board one more time.

8                   (No response.)

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

12          MR. EBERHART:  I'll make a motion  
13          to close the public hearing.

14          MR. BELL:  Second.

15          CHAIRMAN SCALZO:  We have a motion  
16          to close from Mr. Eberhart.  We have a  
17          second from Mr. Bell.  All in favor.

18                   MS. BANKS:  Aye.

19                   MR. EBERHART:  Aye.

20                   MR. HERMANC:  Aye.

21                   CHAIRMAN SCALZO:  Aye.

22                   MR. BELL:  Aye.

23                   MR. MASTEN:  Aye.

24                   MS. REIN:  Aye.

25                   CHAIRMAN SCALZO:  Those opposed?

2                   (No response.)

3                   CHAIRMAN SCALZO:   Okay.   Further  
4                   discussion here, folks.   Ms. Rein.

5                   MS. REIN:   No.

6                   CHAIRMAN SCALZO:   Mr. Masten, any  
7                   comments or questions.

8                   MR. MASTEN:   I haven't.

9                   CHAIRMAN SCALZO:   Mr. Bell.

10                  MR. BELL:   No.

11                  CHAIRMAN SCALZO:   Mr. Hermance.

12                  MR. HERMANCE:   I have nothing  
13                  further.

14                  CHAIRMAN SCALZO:   Mr. Eberhart.

15                  MR. EBERHART:   No.

16                  MS. BANKS:   No.

17                  CHAIRMAN SCALZO:   All right.   It's  
18                  not too far from my house.   I walk down  
19                  and drive by there.   Looking at it in  
20                  comparison to what the neighborhood is,  
21                  it's unusual because it sticks out of the  
22                  ground so high.   I will admit that.  
23                  Obviously the interpretation from the  
24                  Building Department and the applicant  
25                  vary.



2                   Thinking, and I don't know if this  
3                   is the right way to think about it, how  
4                   would it look if you came off the deck  
5                   that's attached to the house on a  
6                   straight shot out the front? It would  
7                   kind of look ridiculous.

8                   MS. REIN: I don't know. You're  
9                   saying there's no other option?

10                  CHAIRMAN SCALZO: No, I'm not  
11                  saying that. I'm just trying to -- there  
12                  is an aesthetic value to the character of  
13                  the neighborhood to what we see here.  
14                  However, that doesn't mean it should -- I  
15                  don't know how I'm trying to say what I'm  
16                  trying to say.

17                  The problem is we weren't afforded  
18                  other options, or the Building Department  
19                  wasn't afforded other options.

20                  MR. DONOVAN: The options you have  
21                  tonight -- you have a request for an  
22                  interpretation. If you render an  
23                  interpretation that this is an unroofed  
24                  step that's on a landing, then he doesn't  
25                  need a variance.

2                   Correct, Joe?

3                   MR. MATTINA: Correct.

4                   MR. DONOVAN: If you say boulder  
5 dash, then he's requesting a variance in  
6 the alternative and you would go through  
7 the five factors.

8                   CHAIRMAN SCALZO: Thank you, Counsel.  
9 I needed that.

10                  MS. BANKS: Can I ask you a question?  
11 This is for my learning. In the past --  
12 is it reasonable to ask a homeowner or  
13 a builder, especially because it's not  
14 occupied, to redo the stairs or are we --  
15 there was a plan that was submitted.  
16 Right? There was a plan that was  
17 submitted. It was denied. Another  
18 plan wasn't resubmitted and approved.

19                  CHAIRMAN SCALZO: Hold on. A plan  
20 was submitted.

21                  Was a plan submitted and denied,  
22 Mr. Mattina, or was a plan submitted and  
23 then by the time you got to review it, it  
24 had already been built?

25                  MR. MATTINA: The original building

2 permit application for a single-family  
3 included the upper front deck only.  
4 That's the only plan I've ever reviewed  
5 or approved.

6 CHAIRMAN SCALZO: Was there ever a  
7 denial by your office or just now they  
8 have the stairs here that were in place  
9 when you did an inspection.

10 MR. MATTINA: Right. He failed one  
11 of his inspections due to the front  
12 landing being built without permits and  
13 he knew it didn't meet zoning.

14 CHAIRMAN SCALZO: I'm only trying  
15 to help with there wasn't a denial. It's  
16 a denial now.

17 MR. DONOVAN: If I may to your  
18 question. If you're exploring the  
19 opportunity to say do you have to rebuild  
20 the steps, or making him rebuild the  
21 steps if you will, I would think it would  
22 be a denial of the interpretation, a  
23 denial of the variance. At that time,  
24 then he wouldn't comply with Town Code.

25 MS. REIN: I agree with you.

2           There's also another part of this, the  
3           financial burden to the family. I think  
4           we have to take that into consideration,  
5           whereas if we go with the unroofed steps,  
6           it's no longer a problem. So we have two  
7           options. We can have this family rebuild  
8           or we can go with the second option and  
9           let it be. I do think we have to take  
10          into consideration the family.

11                 CHAIRMAN SCALZO: How wide are the  
12           steps? 4 feet?

13                 MR. VALDINA: Roughly 4 feet.

14                 CHAIRMAN SCALZO: This landing area  
15           is 6 x 6?

16                 MR. VALDINA: The landing area  
17           between railings north and south is a  
18           little less than 5 feet, east and west is  
19           about 5 feet. It's a relatively small  
20           area. The steps coming down from railing  
21           to railing, if I recall correctly, is  
22           about 40 inches. The steps themselves  
23           are wider, of course. The steps going  
24           down to the driveway are the same width  
25           as the steps coming from the house. The

2 area we're -- that area within the  
3 railing is roughly 5 x 5, the stairs  
4 coming down from the west and the stairs  
5 going down to the south.

6 CHAIRMAN SCALZO: The deck that's  
7 actually attached to the front for  
8 ingress/egress to the house, how far out  
9 from the house is that?

10 MR. VALDINA: 6 feet.

11 CHAIRMAN SCALZO: 6 feet. It's  
12 wide enough where you could put a rocking  
13 chair or something like that?

14 MR. VALDINA: Yes.

15 CHAIRMAN SCALZO: The landing, you  
16 can't throw a rocking chair there?

17 MR. VALDINA: My personal opinion,  
18 if you put a chair there, all you're  
19 going to see is railing.

20 CHAIRMAN SCALZO: I understand  
21 that.

22 MR. VALDINA: There's no room to  
23 put anything there other than for access.

24 CHAIRMAN SCALZO: I understand it  
25 breaks up the entrance of the stairs and

2 it certainly wasn't put there to plop a  
3 picnic table and sit.

4 MR. VALDINA: It's there just for  
5 access.

6 CHAIRMAN SCALZO: We're still  
7 talking here.

8 Ms. Banks, I kind of stepped on  
9 your question there. I didn't want to  
10 cut you off.

11 MS. BANKS: No, no. You really  
12 didn't.

13 CHAIRMAN SCALZO: I'm going to go  
14 back. I just want to burn some time to  
15 let everybody know Mr. Bell is a superior  
16 chairman in my absence.

17 Mr. Eberhart, anything more to  
18 think about on this?

19 MR. EBERHART: Not for me.

20 CHAIRMAN SCALZO: Mr. Hermance.

21 MR. HERMANCE: A question I do  
22 have. Originally the foundation design  
23 was different. When they hit rock, now  
24 wouldn't they have to redesign your  
25 foundation drawing to -- if it was going

2 to be sunk in the ground, it would be  
3 concrete walls up to grade level.

4 MR. VALDINA: It was never intended  
5 to be that high. They were never --

6 MR. HERMANCE: How deep were you  
7 originally going to go?

8 MR. VALDINA: We were going --

9 MR. HERMANCE: 4 feet?

10 MR. VALDINA: -- 4 feet.

11 MR. HERMANCE: So you didn't have  
12 to change the design of the foundation  
13 being that you came up out of the ground?

14 MR. VALDINA: No.

15 MR. HERMANCE: I was going to say,  
16 if you did that, that would have been the  
17 time to submit your drawings.

18 MR. VALDINA: That would have been  
19 a whole different story if we made that  
20 type of structural change. Structural  
21 changes do have to be presented to Code  
22 Compliance.

23 CHAIRMAN SCALZO: I'm looking at  
24 this like it's really not -- I'm not  
25 looking at it as a deck. It's definitely

2               to take a turn on the stairs.

3               MR. HERMANCE:  It's a landing.

4               CHAIRMAN SCALZO:  That's just me.

5               There are seven of us here.  That's how  
6               I'm looking at it.

7               We first need to look at the  
8               interpretation.  Correct?

9               MR. DONOVAN:  Correct.  You don't  
10              get to the area variance unless you deny  
11              the interpretation.

12              CHAIRMAN SCALZO:  Counsel, do I  
13              poll each member, or how do we approach  
14              this?

15              MR. DONOVAN:  That's the pleasure  
16              of the Chairman.  You could ask for a  
17              motion, you could ask for discussion or  
18              poll the Board to see what direction this  
19              is going to take.

20              CHAIRMAN SCALZO:  Sure.  Thank you,  
21              Counsel.

22              I'll start back down with Ms. Banks.

23              MS. REIN:  Has the public meeting  
24              been closed?

25              CHAIRMAN SCALZO:  We did close the



2 public hearing.

3 Ms. Banks, are you looking at this  
4 as a deck, a landing, is it part of the  
5 stairs in itself?

6 MS. BANKS: Initially I was looking  
7 at it as a deck, but it does look more  
8 like a landing just because of the size.  
9 I would go with the interpretation of a  
10 landing.

11 CHAIRMAN SCALZO: Thank you.

12 MS. BANKS: Did I go too fast?

13 CHAIRMAN SCALZO: You're good.

14 Mr. Eberhart, what is your opinion  
15 of, I'll say the purpose of this flat  
16 portion between the stairs?

17 MR. EBERHART: I don't have a  
18 problem right now with that.

19 CHAIRMAN SCALZO: Calling it an  
20 interpretation of the landing as part of  
21 the stairs and not necessarily a deck?

22 MR. EBERHART: Yes.

23 CHAIRMAN SCALZO: Mr. Hermance.

24 MS. BANKS: So I will consider it a  
25 landing, but I hear -- I've heard about

2 the cost to the family.

3 CHAIRMAN SCALZO: That's something  
4 that I really don't take into  
5 consideration. I don't believe it's any  
6 of the criteria --

7 MR. DONOVAN: Sorry to interrupt.  
8 One of the five factors, if you got to  
9 the area variance, is is there any other  
10 method feasible for the applicant to  
11 pursue except for the requested variance.  
12 You can look into -- listen, I'm aware of  
13 the ZBA in a different town that made  
14 somebody shave off the corner of their  
15 house, okay. The answer is yes, is an  
16 alternative feasible for the applicant to  
17 pursue. You may decide that it's  
18 feasible because they could relocate the  
19 second deck. You could decide that.  
20 Economics does come into it is my point.  
21 It can come into it, I should say.

22 CHAIRMAN SCALZO: That's if we get  
23 that far. If our interpretation doesn't  
24 lead us there --

25 MR. DONOVAN: I'm sorry, Mr.

2 Chairman. If your question was -- your  
3 statement was it doesn't come into  
4 bearing with the interpretation, I  
5 should have just said you're correct,  
6 Mr. Chairman.

7 CHAIRMAN SCALZO: I didn't give you  
8 all the information, Dave. You're more  
9 right than me.

10 Sorry, Ms. Banks.

11 MS. BANKS: So the financial cost  
12 to the family is something that we would  
13 consider? Again, this is for my  
14 learning.

15 CHAIRMAN SCALZO: Should we get to  
16 the area variance. Right now we're  
17 looking at an interpretation. If the  
18 interpretation is that it is a landing  
19 and not a deck, then we don't have to get  
20 to that.

21 MS. BANKS: Then I'll ask my other  
22 question offline.

23 MR. EBERHART: I'm back to it's a  
24 landing for me.

25 CHAIRMAN SCALZO: Mr. Hermance.

2                   MR. HERMANCE: I understand why you  
3                   built it, because otherwise you'd have  
4                   stairs -- you'd have to take a break  
5                   halfway up as you're walking. I  
6                   understand why. I think it could have  
7                   been configured differently, but I agree  
8                   it is a landing for the stairs. It's not  
9                   a deck in my opinion.

10                  CHAIRMAN SCALZO: Mr. Bell.

11                  MR. BELL: It appears to be a  
12                  landing.

13                  CHAIRMAN SCALZO: Mr. Masten.

14                  MR. MASTEN: Yes.

15                  CHAIRMAN SCALZO: Ms. Rein?

16                  MS. REIN: It's a landing.

17                  CHAIRMAN SCALZO: So Counsel, I  
18                  think I heard from the six other Members  
19                  here. We all think it's a landing. Do  
20                  we actually have to formally vote?

21                  MR. DONOVAN: You would need to  
22                  render an interpretation. I want to make  
23                  sure this is clear for Joe. I don't want  
24                  you to have any issues after this.

25                  It would be a determination that

2                it's a landing in support of unroofed  
3                steps and therefore the yard requirements  
4                would not apply.

5                Right, Joe?

6                MR. MATTINA: If you called it an  
7                unroofed step, then it doesn't apply. A  
8                landing and a deck, a definition of what  
9                it is has nothing to do with the  
10               variance. What I'm saying is it doesn't  
11               meet full ground open area. You can call  
12               it anything you want. You can call it a  
13               deck, a landing. It doesn't have the  
14               full ground to sky opening.

15               MR. DONOVAN: If it's unroofed  
16               steps --

17               MR. MATTINA: If you consider the  
18               landing as part of the steps, it's a mute  
19               point. I just want you to be sure -- I'm  
20               not putting a definition on why it's  
21               here.

22               MR. DONOVAN: I want you to be sure  
23               so he's sure so we don't see him in two  
24               months. Not that you're not welcome to  
25               come.

2 CHAIRMAN SCALZO: I think,  
3 Mr. Mattina, just the way you said  
4 that really helped me out. If we're  
5 considering that landing part of the  
6 steps, my interpretation is it's part  
7 of the steps. It might be part of  
8 the steps that you stop and take a  
9 breather at. You're certainly not  
10 going to sit there and drink a  
11 Yoo-hoo on a rocking chair while  
12 you're doing it.

13 Thank you. You actually helped  
14 me even more.

15 MR. DONOVAN: It would be a motion  
16 to adopt an interpretation that that is  
17 part of the unroofed steps and therefore  
18 a variance is not required.

19 Is that clear enough for you, Joe?

20 MR. MATTINA: That's perfect.

21 MR. DONOVAN: If that's what the  
22 Board wants to do.

23 MS. REIN: I'll make that motion.

24 CHAIRMAN SCALZO: We have a motion  
25 from Ms. Rein.

2                   MR. MASTEN: I'll second it.

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

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

7                   MS. JABLESNIK: Ms. Banks.

8                   MS. BANKS: Yes.

9                   MS. JABLESNIK: Mr. Bell.

10                  MR. BELL: Yes.

11                  MS. JABLESNIK: Mr. Eberhart.

12                  MR. EBERHART: Yes.

13                  MS. JABLESNIK: Mr. Hermance.

14                  MR. HERMANCE: Yes.

15                  MS. JABLESNIK: Mr. Masten.

16                  MR. MASTEN: Yes.

17                  MS. JABLESNIK: Ms. Rein.

18                  MS. REIN: Yes.

19                  MS. JABLESNIK: Mr. Scalzo.

20                  CHAIRMAN SCALZO: Yes.

21                  The motion is carried. The  
22                  interpretation is in your favor.

23                  MR. VALDINA: Will I receive a  
24                  notification?

25                  CHAIRMAN SCALZO: You were

2           listening to the last one. Reach out to  
3           Siobhan and she will guide you.

4           MR. DONOVAN: You will definitely  
5           receive written notification because  
6           everyone does.

7           MR. VALDINA: Thank you very much,  
8           ladies and gentlemen. Thank you for your  
9           time.

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11                   (Time noted: 8:05 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 7th day of June 2025.

  
\_\_\_\_\_  
MICHELLE CONERO

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

JEFFREY GUION

490 Lakeside Road, Newburgh  
Section 14; Block 3; Lot 11  
R-1 Zone

----- X

Date: June 26, 2025  
Time: 8:05 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: JEFFREY GUION

----- X

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

2 CHAIRMAN SCALZO: We're going to  
3 continue, folks. Our next applicant  
4 is Jeffrey Guion, 490 Lakeside Road  
5 for an area variance of accessory  
6 structures in the front yard and  
7 maximum square footage to build a  
8 24 x 30 detached garage, maximum  
9 square footage to build an 8 x 8  
10 garden shed/greenhouse and maximum  
11 square footage and the setback to a  
12 property line to keep a 21 x 22  
13 accessory building on the property.

14 Do we have mailings on this,  
15 Siobhan?

16 MS. JABLESNIK: We do. This  
17 applicant sent twenty-one letters.

18 CHAIRMAN SCALZO: Twenty-one  
19 letters.

20 Who do we have with us?

21 MR. GUION: Jeff.

22 I'm not a very good public speaker.  
23 Actually, the last time I spoke in  
24 public, it was at my dear friend Conrad  
25 Hansel's funeral. I had to write it out

2 or I would have never got through it. If  
3 it's okay with you, I'll read my opening  
4 statement.

5 CHAIRMAN SCALZO: Please do.

6 MR. GUION: Good evening, Board  
7 Members. My name is Jeff Guion, I'm a  
8 longtime resident of Orange Lake, a  
9 current federal law enforcement  
10 investigator, a forty-year military  
11 veteran and an active member of the  
12 community now for over thirty-five years.

13 My wife and I purchased our  
14 property at 490 Lakeside Road in 1989 to  
15 raise a family of five. Unfortunately,  
16 because my house was built in the mid  
17 1800s, it didn't have a single closet,  
18 not a garage, not a shed, nor any usable  
19 basement space for anything clean and dry  
20 for the storage of all of our essentials.  
21 This is why I built the existing 16 x 20  
22 storage shed close to thirty years ago.  
23 This was well before I knew anything  
24 about construction permits, zoning codes.  
25 It was a learning process for me. I'm

2                here today trying to make everything  
3                right and legal with the Town Building  
4                Department.

5                Having that storage building has  
6                been a blessing over the years with  
7                adequate room to store all my construction  
8                tools, gardening tools, automotive tools,  
9                generators, compressors, patio furniture,  
10                coolers, bicycles, all my kids' stuff.  
11                Pretty much everything went into that  
12                storage shed.

13                Tonight I'm petitioning the Zoning  
14                Board for approval to keep this existing  
15                storage shed in its exact location, in  
16                addition to building a new state-of-the-  
17                art two-car garage at the end of my  
18                driveway and to build a small greenhouse  
19                in my backyard. With your approval I'll  
20                continue with my plan to raise the  
21                overall value and appearance of my  
22                property, in addition to bringing my  
23                centuries old house up to current living  
24                standards, that is of a nice house, a  
25                nice property with a two-car garage and

2 and a storage shed for all my personal  
3 belongings.

4 With that, I'll take any questions  
5 about my request.

6 MS. REIN: First I want to -- I  
7 want you to thank your wife for showing  
8 me around. She was very kind.

9 MR. GUION: She didn't tell me.

10 MS. REIN: It was today. I didn't  
11 see any issue. I know in the back you  
12 have that little patio where the  
13 greenhouse goes. You can't see that from  
14 the road. You can't see it from  
15 anywhere. It's well hidden back there.

16 MR. GUION: It's beautiful.

17 MS. REIN: It is beautiful. The  
18 storage shed is there, but your neighbor  
19 across the street has the same thing, and  
20 a couple other folks in the area have the  
21 same thing.

22 MR. GUION: Absolutely.

23 MS. REIN: The only thing I was  
24 concerned about was the garage, because  
25 the folks across the street from you have

2 a garage, too. I don't remember -- I  
3 think it's a two-car garage. The garage  
4 is lateral to the shed, so the area that  
5 it's put back to is the same. I'm  
6 looking at where your garage is going to  
7 go. It's going to be really close to the  
8 road. I'm concerned about a traffic  
9 issue.

10 I was wondering, is there any way  
11 you would consider putting it on the  
12 other side of the house where you have  
13 the rest of that property so it's set  
14 back where it should be?

15 MR. GUION: My house was built in  
16 1850-ish. That was probably before  
17 Lakeside Road was even there. It was the  
18 original West Lake Farm. The town  
19 historian told me all about my property  
20 and why it's facing the opposite  
21 direction of Lakeside Road. Lakeside  
22 Road also makes a big bend right there  
23 which puts my house at 100 feet from the  
24 road. My storage shed right now is 100  
25 feet from the road. When I build this

2                two-car garage, it will be 5 feet from  
3                the storage shed, it will be 24 feet  
4                deep. It will still be 70 feet from  
5                Lakeside Road. If you drive down  
6                Lakeside Road, there are garages that you  
7                almost have to swerve out of the way.  
8                Granted their houses are down by the  
9                lake, so they have to have their garage  
10               up by the road. There are garages on  
11               Lakeside Road that are 5, 10 feet off the  
12               road. My existing shed is 100 feet, the  
13               garage is going to be 70 feet off the  
14               road still. It may be a little deceiving.

15               MS. REIN: It was. She kept saying  
16               I wish my husband was here.

17               MR. GUION: In the pictures I had  
18               the cones laid out for the exact  
19               footprint. Unfortunately I had to move  
20               them to park our vehicles and stuff. It  
21               will still be 70 feet from Lakeside Road.  
22               It definitely won't create any hazards.

23               As far as an obstruction of view, I  
24               think maybe you eluded to that from my  
25               neighbor.



2 MS. REIN: That's okay.

3 MR. GUION: I'll address it anyway  
4 if that's okay. I spoke with Mike today.  
5 Mike West is my next door neighbor for  
6 thirty-five years now. Good friends. I  
7 helped him raise his kids with my kids.  
8 They shared my backyard. He offered to  
9 come tonight on my behalf and say,  
10 listen, I have no problem. As a matter  
11 of fact, if you build this garage here,  
12 that will give us more seclusion and  
13 privacy.

14 MS. REIN: You seem to have a lot  
15 of seclusion over there. I didn't see it  
16 as an issue.

17 MR. GUION: As far as moving it on  
18 to any other location on the property, I  
19 have 100-foot driveway. In order to put  
20 it somewhere else, it wouldn't really be  
21 feasible because right now it's at the  
22 end of my driveway. When you drive right  
23 in, you'll back right into the garage.  
24 Really there's no other location.

25 MS. REIN: 5 feet will be enough

2 between the shed and the garage?

3 MR. GUION: Yes, ma'am. Absolutely.  
4 It will also be 5 feet off the property  
5 line at a minimum.

6 MS. REIN: Thank you.

7 MR. GUION: Does that answer your  
8 question?

9 MS. REIN: Yes.

10 MR. GUION: Good.

11 CHAIRMAN SCALZO: Mr. Masten, do  
12 you have questions?

13 MR. MASTEN: I have no questions.

14 CHAIRMAN SCALZO: How about you,  
15 Mr. Bell.

16 MR. BELL: These cones would have  
17 -- when I saw them in the picture, it  
18 would have helped give me a visual  
19 because I was really concerned with how  
20 close your garage was going to be to the  
21 main road. I'm seeing where you are  
22 right behind the walkway. I was  
23 concerned with how close you were going  
24 to be with the shed. I'm good now.

25 MR. GUION: One point to that, sir,

2 is my house sits kind of diagonal with  
3 the road, because obviously it was built  
4 in the 1800s. If you project a line  
5 right cross the front of my house, it's  
6 actually the -- it's going to be in  
7 line with the new garage. Actually,  
8 aesthetically I think it's going to  
9 look pretty nice.

10 MR. BELL: Basically you're not  
11 going to see your shed.

12 MR. GUION: You won't see the shed  
13 at all. What I meant is the new garage,  
14 even though it's going to be 25 feet  
15 closer to the road, the road makes a big  
16 bend there. My house is going to line up  
17 directly with the front of the new  
18 garage.

19 MR. BELL: I live right down the  
20 street, so I know what you're talking  
21 about. I got you.

22 CHAIRMAN SCALZO: Mr. Hermance.

23 MR. HERMANCE: Just out of  
24 curiosity, have you considered moving it  
25 right flush with your existing shed?

2 MR. GUION: I could, but the front  
3 doors on my shed right now open up 4  
4 feet. I would need the room. I do have  
5 a side door on the shed, but the two  
6 doors that open up in the front I still  
7 want access to. I could move it closer,  
8 and I wasn't sure if that was a  
9 requirement. I know the 5-foot setback  
10 off the property line was a requirement.  
11 I guess I could adjoin the two and that  
12 would make it 75 feet off Lakeside Road.  
13 I would just lose access to the front  
14 doors.

15 MR. HERMANCE: Those front doors,  
16 could you make like a slider instead of a  
17 swing out?

18 MR. GUION: I already have a roll-  
19 up back door planned. That's going to be  
20 for a lawn tractor or equipment. I guess  
21 I could have doors coming out the back of  
22 the garage into the storage shed. I just  
23 thought having a 5-foot separation made  
24 sense to me when I designed it.

25 MR. BELL: That wouldn't be a bad

2               proposal.

3               MR. GUION: I actually thought that  
4               Joe would be happier if I kept them  
5               separate. The barn I built thirty years  
6               ago. It is super solid. I'm an Army  
7               engineer, everything I build is three  
8               times more solid than it needs to be. I  
9               figured keep the new state-of-the-art  
10              garage separate. Technically the garage  
11              is going to be on a foundation and it's  
12              going to be on a poured slab -- a poured  
13              floor and footings. That's why the  
14              separation made sense to me, for ease of  
15              building and also for ease of access.  
16              I'd rather not if possible. It really  
17              only gains me 5 more feet from Lakeside  
18              Road.

19             MR. HERMANCE: That would give you  
20             enough room for turning radiuses to get  
21             tractors or whatnot out of that shed?

22             MR. GUION: Yes. I don't store any  
23             power equipment in that shed. That's for  
24             all the miscellaneous furniture. When my  
25             parents died, all of their China cabinets

2 went in there. When my kids all joined  
3 the Air Force at twenty-one, all three of  
4 them, all their stuff went in there. At  
5 some point they'll reclaim that. I don't  
6 keep any power equipment in that shed  
7 because of fuel issues. I keep that all  
8 outside.

9 MR. BELL: How did you let that  
10 happen?

11 MR. GUION: How did I let all three  
12 of my kids go in the Air Force when I  
13 spent forty years in the Army. I'll  
14 answer that if that's okay. The answer  
15 is you want something better for your  
16 kids.

17 MR. BELL: That's just an Army  
18 joke.

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

20 CHAIRMAN SCALZO: Mr. Eberhart.

21 MR. EBERHART: At least they didn't  
22 go into the Navy. That would have been  
23 worse.

24 I have nothing.

25 CHAIRMAN SCALZO: Ms. Banks.

2 MS. BANKS: No.

3 CHAIRMAN SCALZO: We see a bunch of  
4 applications where garages come in being  
5 in front of the house. Where you have  
6 the benefit here, in my opinion, is that  
7 you're really not out in front of the  
8 house. You project your house line,  
9 we're looking at perpendicular off the  
10 property lines.

11 My issue really is almost nothing  
12 to do with your garage. It has  
13 everything to do with your shed and your  
14 lean-to.

15 Joe, the requested square feet,  
16 1,246, that is for accessory buildings as  
17 a whole?

18 MR. MATTINA: That's all three  
19 buildings. Correct.

20 CHAIRMAN SCALZO: That's where  
21 we're seeking a variance here. My issue  
22 is --

23 MR. MATTINA: You have three  
24 applications. One is the square footage,  
25 one is the lean-to to the property line

2 and one is the garage in the front yard.  
3 There are three different applications  
4 here.

5 CHAIRMAN SCALZO: Okay. My issue  
6 is really with the lean-to to the  
7 property line. If there was a dimension  
8 on the map of how close that lean-to is  
9 to the property line, I don't see it. Am  
10 I missing it?

11 MR. GUION: Let me explain exactly  
12 the situation with the lean-to. So I  
13 built that shed when I was thirty years  
14 old. I knew nothing about codes and  
15 laws. Now I know. Now I'm trying to get  
16 everything into compliance. When I built  
17 it, I did build it like 7 feet off the  
18 property line. However, later on I felt  
19 the need that I needed the lean-to to  
20 park a lawn tractor, to park my  
21 snowblower and stuff like that. The  
22 lean-to, yes, it has a roof, but it's not  
23 part of the structure. It wasn't until  
24 Joe clued me in that the lean-to is part  
25 of the square footage configuration.



2 Yes, the lean-to does come out to within  
3 like a foot and-a-half of the property  
4 line. There's no doubt. I built the  
5 lean-to later on. It's just a couple  
6 posts and a roof. It's not an enclosed  
7 structure. It's actually enclosed with  
8 tarps so that my neighbor is not looking  
9 at my snowblower and tractor.

10 The lean-to, Joe, is considered  
11 part of the structure or is it --

12 MR. MATTINA: Yes, part of the  
13 accessory structure.

14 CHAIRMAN SCALZO: Where I go with  
15 that, I wish I had a lean-to myself,  
16 however I don't. When it comes to  
17 maintenance of that, let's say you had to  
18 access that, and you said you have a  
19 great relationship with your neighbor,  
20 hopefully that's always the case.  
21 Sometimes that doesn't happen. If you  
22 had to maintain that edge of the roof,  
23 how do you get there? You're a thin  
24 fellow. Perhaps you stand and hold your  
25 breath in while you reach up to the edge.

2 If you had to access that --

3 MR. GUION: The hedgerow is  
4 actually on my property and I maintain  
5 it. I do both sides. I do his side and  
6 I do my side. We have an agreement in  
7 the backyard where they're shared. I  
8 actually take care of that hedgerow  
9 there. I still will have plenty of  
10 access because the new two-car garage is  
11 going to be in line with the main part of  
12 the storage shed.

13 CHAIRMAN SCALZO: I got you. It's  
14 the lean-to being one and-a-half feet off  
15 the property line. We have an opportunity  
16 here, because you're standing in front of  
17 us, to remedy that. Again, if the property  
18 changes hands, one and-a-half feet to a  
19 property line for any type of maintenance  
20 on a structure on your property  
21 becomes challenging.

22 The post that I saw holding that  
23 up on the front face looked like a  
24 substantial post.

25 MR. GUION: I overbuild everything.

2 CHAIRMAN SCALZO: Good for you.  
3 It's definitely a solid structure going  
4 on there.

5 The roof, I struggle with having  
6 something so close to a property line,  
7 especially when it comes to the  
8 maintenance aspect.

9 Is it off the table or are you,  
10 I'll say, digging your heels in that that  
11 has to stay?

12 MR. GUION: I would prefer to keep  
13 the lean-to just to keep my snowblower  
14 and stuff like that in there. I mean,  
15 I'm not going to say no if that's going  
16 to hold up my appeal, obviously. It is  
17 part of my request to keep the structure  
18 as is.

19 CHAIRMAN SCALZO: From the garage  
20 to the property line you said was seven  
21 feet?

22 MR. GUION: Roughly seven feet.

23 CHAIRMAN SCALZO: The lean-to makes  
24 it a foot and-a-half. The lean-to is  
25 plus or minus five and a half, six feet.

2 MR. GUION: Just enough to fit my  
3 equipment.

4 CHAIRMAN SCALZO: Those are my  
5 thoughts on this. We're going to come  
6 back.

7 At this time I want to open it up  
8 to any members of the public that wish to  
9 speak about this application.

10 (No response.)

11 CHAIRMAN SCALZO: We've got a lot  
12 of shaking heads there. It doesn't look  
13 like we have any public input here.

14 I'll look to the Board for a motion  
15 to close the public hearing.

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

18 MS. REIN: Second.

19 CHAIRMAN SCALZO: We have a motion  
20 from Mr. Masten. We have a second from  
21 Ms. Rein. We had a yawn from Ms. Banks.  
22 I think she wanted to get it out.

23 MS. BANKS: It's been a long week.

24 CHAIRMAN SCALZO: All those in  
25 favor.

2                   MS. BANKS:   Aye.

3                   MR. EBERHART:   Aye.

4                   MR. HERMANCE:   Aye.

5                   CHAIRMAN SCALZO:   Aye.

6                   MR. BELL:   Aye.

7                   MR. MASTEN:   Aye.

8                   MS. REIN:   Aye.

9                   CHAIRMAN SCALZO:   Those opposed?

10                   (No response.)

11                   CHAIRMAN SCALZO:   The public  
12                   hearing is now closed.

13                   Board discussion.   As mentioned,  
14                   there are three variances in front of us.

15                   MS. REIN:   Isn't the greenhouse  
16                   also?   That's four.

17                   MR. GUION:   The greenhouse is the  
18                   third structure.   One of them is  
19                   existing, and that's my garage.   I'm  
20                   sorry.   The storage shed, that's  
21                   existing.   The two that I propose  
22                   building are separate permits that I put  
23                   in.   One of them was for a greenhouse and  
24                   one of them was for the new garage.   Joe  
25                   figured it was best to put them all

2 together into one variance request.

3 CHAIRMAN SCALZO: As we vote on  
4 these we don't have to -- Counsel --

5 MR. DONOVAN: You can separate them  
6 if you so desire or you could vote on  
7 them together.

8 CHAIRMAN SCALZO: Again, there's  
9 seven of us here. My opinion on the  
10 greenhouse -- the garage, you know, he  
11 straightened me out with the 5 feet  
12 between that and the shed. I know we're  
13 aware when garages are forward of the  
14 house, separate from the house. This one  
15 quite doesn't fit in the same mold as  
16 some of the others we voted on recently.

17 MR. BELL: Not at all.

18 CHAIRMAN SCALZO: I'm hung up on  
19 the lean-to. If you had something one  
20 and-a-half feet from your property line  
21 and your neighbor wanted to step on your  
22 property every time they had to maintain  
23 it, how would you feel?

24 MS. REIN: Are you talking about  
25 the shed?

2 MR. BELL: He's talking about the  
3 lean-to.

4 CHAIRMAN SCALZO: If you look at  
5 the face of the shed, there's an open  
6 side. That's what I'm talking about.

7 The shed itself I think is  
8 beautiful.

9 MS. REIN: It looks just like the  
10 folks across the street.

11 CHAIRMAN SCALZO: The lean-to was  
12 done separately from the shed. I don't  
13 know how difficult it would be to remove  
14 or even reduce it in size. Our minimum  
15 setback for any accessory structure to a  
16 property line is five feet. Right now  
17 we're three feet over that -- three  
18 and-a-half feet.

19 MS. BANKS: Could it possibly -- I  
20 don't want to create a hardship here.  
21 Could it be moved to the other side, the  
22 lean-to?

23 CHAIRMAN SCALZO: Or to the back.

24 MR. GUION: Well, I can pretty much  
25 build anything or take anything down at

2 your request. That's what I specialize  
3 in. To me it was the perfect spot when I  
4 built it because it hides all of my stuff  
5 away from -- behind the hedge and behind  
6 the storage shed. If it needs to come  
7 down at your request, I will absolutely  
8 take it down.

9 MS. REIN: Then we were talking  
10 about --

11 CHAIRMAN SCALZO: It's not so much  
12 taking it down. I don't like the offset  
13 to the property line. I would be fine  
14 with it if you put it on the back and  
15 even put up a lattice wall so you could  
16 still maintain that privacy that your  
17 neighbor enjoys.

18 MR. GUION: Would a lattice wall  
19 between it now change your opinion on me  
20 keeping it if I put a lattice wall? As  
21 you see, I'm in the process of redoing  
22 the house. I put a new roof on, I  
23 painted the house, I painted the barn.  
24 I'm in the process of overall doing my  
25 entire property. Putting a lattice wall



2 and/or fence between our properties is  
3 part of the plan.

4 CHAIRMAN SCALZO: Perhaps I didn't  
5 convey what I was looking at. My issue  
6 is not necessarily with hiding what's in  
7 your lean-to. My issue is the closeness  
8 of your lean-to to the property line.  
9 Lattice would not help. If you were to  
10 put your lean-to behind your shed, just  
11 to maintain the privacy that your  
12 neighbor has from what's being blocked  
13 now. It was merely a suggestion. I'm  
14 not saying that's -- again, my struggle  
15 is with your offset from the property  
16 line to the lean-to.

17 MR. GUION: If the Board deems I  
18 must take it down, the Board has spoken.

19 CHAIRMAN SCALZO: Why I say I don't  
20 mind if you throw it on the back is  
21 because you're in here looking for that  
22 square footage. I don't want to see you  
23 lose the square footage. By us saying if  
24 you were to just relocate it, not  
25 necessarily lose it completely.

2 MR. GUION: Here's my question,  
3 sir, for you then. Would I have  
4 permission to build the two-car garage,  
5 build my wife's greenhouse so that once  
6 they're all completed, I have a certain  
7 amount of time to move the lean-to to the  
8 other side of my garage and then get a CO  
9 on that?

10 CHAIRMAN SCALZO: It could be a  
11 condition of the CO.

12 I suppose, Mr. Mattina, you've seen  
13 things like that before.

14 MR. MATTINA: I've seen everything.

15 CHAIRMAN SCALZO: Should you be  
16 successful this evening, you build the  
17 greenhouse, you build the garage --

18 MR. GUION: Then I would have room  
19 to move all the stuff that's currently  
20 secured under there. Then I would have a  
21 place to put it before I moved it.

22 CHAIRMAN SCALZO: It's a three-part  
23 permit. We can certainly give you a  
24 three-part answer. That's where I'm  
25 falling here. I don't want to -- again,

2 I'm just one of seven.

3 MS. REIN: If you put the lean-to  
4 in the back, is that going to interrupt  
5 putting your doors back there, your roll-  
6 up door?

7 MR. GUION: I think he's saying put  
8 the lean-to on the back of the current  
9 storage shed, not on the back of the new  
10 garage. The roll-up door is going to be  
11 on the new garage.

12 MS. REIN: I thought the roll-up  
13 door was going to be on the shed. Okay.  
14 I'm good.

15 MR. BELL: Unfortunately the  
16 neighbor is not here to support what  
17 you're talking about, losing his portion  
18 of the property.

19 MR. GUION: I spoke with both of my  
20 neighbors. They've been our neighbors  
21 for thirty-five years now. He has no  
22 problem with anything I'm proposing as  
23 far as the garage or the greenhouse. As  
24 a matter of fact, he's all for the  
25 greenhouse. He's got quite the green

2 thumb. Mike I spoke with just yesterday  
3 and he had no problem with either. I  
4 asked him, I'm like, is this okay where  
5 it is now. He goes absolutely, I love  
6 the additional privacy.

7 CHAIRMAN SCALZO: Sir, you have a  
8 lovely property. My issue is solving a  
9 problem that's going to come up in thirty  
10 years, not three.

11 MR. GUION: I understand that, sir.

12 CHAIRMAN SCALZO: Again, there's  
13 seven of us. They may feel differently  
14 than I do.

15 Folks, my opinion is I would like  
16 to address this application in three  
17 parts.

18 MR. BELL: Individually.

19 MR. DONOVAN: Perhaps you want to  
20 reconsider.

21 CHAIRMAN SCALZO: Thank you, Counsel.

22 MR. DONOVAN: You may wish to engage  
23 in the five-part balancing tests for all  
24 three. If anyone has something to say  
25 about the lean-to, they can say it at

2 that time. When you conclude, there  
3 could be a motion to approve or deny  
4 or approve with conditions. How does  
5 that sound?

6 It's 8:35 and you're on the  
7 third application. I was on 207 last  
8 month by this time.

9 CHAIRMAN SCALZO: So this is a Type  
10 2 action under SEQRA?

11 MR. DONOVAN: That is correct.

12 CHAIRMAN SCALZO: Thank you.

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

19 MS. REIN: No.

20 CHAIRMAN SCALZO: I don't think so.

21 MR. BELL: No.

22 CHAIRMAN SCALZO: The second, if  
23 there's an undesirable change in the  
24 neighborhood character or a detriment to  
25 nearby properties.

2                   MS. BANKS:   No.

3                   MR. EBERHART:   No.

4                   MR. HERMANCE:   No.

5                   MR. BELL:   No.

6                   MR. MASTEN:   No.

7                   MS. REIN:   No.

8                   CHAIRMAN SCALZO:   The property is  
9                   very lovely.  I'm sure what he's going to  
10                   do is going to be just as lovely or more.

11                   Third, whether the request is you  
12                   substantial.  I only have one which I  
13                   consider to be substantial which is the  
14                   area as it applies to the lean-to.  
15                   That's my only one.

16                   MR. GUION:   That's the setback  
17                   variance.

18                   CHAIRMAN SCALZO:   Yes.

19                   Fourth, whether the request will  
20                   have adverse physical or environmental  
21                   effects.

22                   MS. BANKS:   No.

23                   MR. EBERHART:   No.

24                   MR. HERMANCE:   No.

25                   MR. BELL:   No.

2 MR. MASTEN: No.

3 MS. REIN: No.

4 CHAIRMAN SCALZO: I do not believe  
5 so as well.

6 Fifth, whether the alleged  
7 difficulty is self-created, which is  
8 relevant but not determinative. Of  
9 course it's self-created. Most that show  
10 up here are.

11 Having gone through the balancing  
12 tests of the area variances, does the  
13 Board have a motion of some sort, perhaps  
14 with conditions?

15 MS. REIN: I'll make a motion to  
16 approve with the conditions that the  
17 lean-to be moved.

18 MR. HERMANCE: Upon completion of  
19 the garage so he doesn't have to move  
20 it --

21 MS. REIN: He can move it whenever  
22 he wants to move it.

23 MR. HERMANCE: -- until that's  
24 completed.

25 MR. DONOVAN: If you want to impose

2 a condition to give him time to move  
3 the lean-to, you ought to set forth a  
4 specific time.

5 CHAIRMAN SCALZO: Once the garage  
6 is up, would thirty days be sufficient  
7 for you to take care of that?

8 MR. GUION: So I'm taking out a  
9 permit now to get approval -- to get a CO  
10 on the existing structure. Would it be  
11 -- how long is the permit good for?

12 CHAIRMAN SCALZO: Six months.

13 MR. MATTINA: A year and-a-half  
14 once you start.

15 MR. GUION: Once I open up the  
16 permit, before I can get a CO the  
17 condition is that I have to put the  
18 lean-to on the other side of the garage  
19 or in the back of the shed. So before I  
20 apply for a CO, would that be a  
21 reasonable condition?

22 MR. DONOVAN: That's up to the  
23 Board. That sounds better than anything  
24 I could come up with.

25 CHAIRMAN SCALZO: I would say so,



2               s i r .

3               MR. GUION:   To me that's an  
4               approval with the condition that I can't  
5               get a CO from Joe and the Building  
6               Department until that's moved.

7               MS. REIN:   Okay.

8               MR. GUION:   That doesn't stop me  
9               from moving on with the rest of --

10              CHAIRMAN SCALZO:   That's the first  
11              time an applicant has really come up with  
12              a great solution here.   This is wonderful.

13              MR. GUION:   I'm a problem solver.  
14              I'll make moving that lean-to part of the  
15              overall project.

16              MS. REIN:   I'm good with that.

17              CHAIRMAN SCALZO:   Counsel, are you  
18              clear?

19              MR. DONOVAN:   That's like the  
20              clearest I've heard here in eighteen  
21              years.   Perfect.

22              MR. GUION:   I'm about to retire  
23              from the FBI.   If there's an extra seat  
24              up here --

25              CHAIRMAN SCALZO:   There will be at

2               the end of the year.

3               MS. REIN:   We would love it.

4               CHAIRMAN SCALZO:   We sit once a  
5               month.

6               MS. REIN:   Are you serious?

7               MR. GUION:   Am I serious about --

8               CHAIRMAN SCALZO:   Hold on.   I think  
9               we have the motion out there with  
10              conditions.   Now I'll look to the Board  
11              for -- that motion actually came with a  
12              condition.   Do I have a second?

13              MR. BELL:   Second.

14              CHAIRMAN SCALZO:   We have a second  
15              from Mr. Bell.   Who was that motion from?  
16              Ms. Rein?

17              MS. REIN:   Yes.

18              CHAIRMAN SCALZO:   Can you roll on  
19              that, please, Siobhan.

20              MS. JABLESNIK:   Ms. Banks.

21              MS. BANKS:   Yes.

22              MS. JABLESNIK:   Mr. Bell.

23              MR. BELL:   Yes.

24              MS. JABLESNIK:   Mr. Eberhart.

25              MR. EBERHART:   Yes.

2                    M S .   J A B L E S N I K :    M r .   H e r m a n c e .

3                    M R .   H E R M A N C E :    Y e s .

4                    M S .   J A B L E S N I K :    M r .   M a s t e n .

5                    M R .   M A S T E N :    Y e s .

6                    M S .   J A B L E S N I K :    M s .   R e i n .

7                    M S .   R E I N :    Y e s .

8                    M S .   J A B L E S N I K :    M r .   S c a l z o .

9                    C H A I R M A N   S C A L Z O :    Y e s .

10                    T h e   m o t i o n   i s   c a r r i e d .    T h e  
11                    v a r i a n c e s   a r e   a p p r o v e d .    T h a n k   y o u   v e r y  
12                    m u c h .

13                    M R .   G U I O N :    T h a n k   y o u .

14                    I   w a n t e d   t o   s a y   o n e   e x t r a   t h i n g .  
15                    J o h n   M a s t e n   w a s   t h e   b e s t   b o s s   I   e v e r   h a d .

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17                    ( T i m e   n o t e d :    8 : 4 0   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 7th day of July 2025.

  
\_\_\_\_\_  
MICHELLE CONERO

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

LITE BRITE SIGNS

31 North Plank Road, Newburgh  
Section 75; Block 1; Lot 13.1  
B Zone

----- X

Date: June 26, 2025  
Time: 8:40 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

----- X

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

2 CHAIRMAN SCALZO: Next up is  
3 Lite Brite Signs, 31 North Plank  
4 Road, a use variance to allow three  
5 separate menu boards and a 10-foot  
6 menu board/canopy on the premises.  
7 If the use variance is granted or  
8 unnecessary, then an area variance to  
9 install the signage on the site.  
10 This one is otherwise known as  
11 Starbucks.

12 Siobhan, do we have mailings on  
13 this?

14 MS. JABLESNIK: This applicant sent  
15 twenty-nine letters.

16 CHAIRMAN SCALZO: Twenty-nine  
17 letters.

18 Who do we have this evening from  
19 Lite Brite Signs?

20 MS. JABLESNIK: I do not see Maria.

21 MS. BANKS: They told me they were  
22 just waiting for us to finish out. It's  
23 interesting that no one is here.

24 CHAIRMAN SCALZO: We'll hold off on  
25 that and give them an opportunity even

2 though it's 20 to 9.

3 MS. WOODHALL: I'm here about Lite  
4 Brite. I live in the neighborhood. As  
5 of right now I cannot see the new  
6 Starbucks or the liquor store or anything  
7 like that. Once fall comes and all the  
8 leaves are off the trees, I have a  
9 perfect view. I'm afraid that their menu  
10 boards, if they're facing towards my  
11 house, I'm going to see them.

12 CHAIRMAN SCALZO: Okay. Thank you  
13 very much for your comments. Could you  
14 state your name?

15 MS. WOODHALL: Charlene Woodhall.

16 CHAIRMAN SCALZO: Thank you.

17 MS. McCOMB: My name is Evelyn  
18 McComb. I live down the street, on the  
19 corner of Winding Lane and Meadow Street.  
20 I see everything at the Mid Valley Mall.  
21 I've been around for a long time. I've  
22 watched the mall evolve, and not in a  
23 good way. I'm not saying Starbucks is a  
24 bad place.

25 I don't know that any of you were

2 there, but I've been here and asking  
3 questions. I was told nothing would  
4 happen with KFC, but I'm looking at two-  
5 foot red letters all the time. Yes, the  
6 foliage will come down and we will  
7 continue to see that.

8 I mean, it's really, really  
9 something I would expect this Board to  
10 take into consideration.

11 CHAIRMAN SCALZO: Okay. When I had  
12 mentioned that we were going to give them  
13 a little time, I was going to give them  
14 the opportunity to go last if they  
15 happened to arrive. If not, what was  
16 going to happen this evening is that we  
17 would defer them to next month. I  
18 appreciate that members of the public  
19 come out to speak because we get a lot  
20 out of it from you folks. If they don't  
21 arrive by the end of this meeting, we're  
22 going to push them off to next month. I  
23 know it's an inconvenience for you to be  
24 here, but your comments are very valuable  
25 to us. I would ask that if they don't



2           arrive, we're going to keep this open  
3           until next month and that you come back,  
4           because I would like them to hear your  
5           comments as well. We're going to come  
6           back to this.

7           Thank you.

8           (Time noted: 8:43 p.m.)

9           (Time resumed: 9:12 p.m.)

10           CHAIRMAN SCALZO: We've gotten to  
11           the end of the agenda and Lite Brite has  
12           not shown, therefore we will push them  
13           off to next month's meeting on July 24th.

14           You will not be re-noticed. You  
15           won't get any more mailings, you have to  
16           mark your calendars.

17

18           (Time noted: 9:13 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 7th day of July 2025.

Michelle Conero

---

MICHELLE CONERO

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

ANGIE MORALES

3 Snider Avenue, Walden  
Section 32; Block 6; Lot 7.2  
R-1 Zone

----- X

Date: June 26, 2025  
Time: 8:43 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVES: ANGIE MORALES  
JEFFREY GOODRICH

----- X

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

2 CHAIRMAN SCALZO: The next one we  
3 have is Angie Morales, 3 Snider Avenue in  
4 Walden, seeking an area variance to  
5 install a 15' x 30' aboveground pool in  
6 the front yard because they have three  
7 front yards.

8 Do we have mailings on this,  
9 Siobhan?

10 MS. JABLESNIK: This applicant sent  
11 twenty-five letters.

12 CHAIRMAN SCALZO: Twenty-five.  
13 Very good.

14 If I have captured everything that  
15 you would like to do in that one short  
16 sentence, we can continue. If you would  
17 like to add some color commentary to it,  
18 feel free.

19 MS. MORALES: Hi. I am the owner  
20 of three front yards. I wasn't aware I  
21 had three front yards.

22 CHAIRMAN SCALZO: Your name is?

23 MS. MORALES: Angie Morales. I  
24 really go by Goodrich because I'm  
25 married. This is my husband Jeff. He's

2 going to be the creator of the lovely  
3 pool, so he's going to be the one doing  
4 the talking. I'm the visionary.

5 CHAIRMAN SCALZO: It sounds like  
6 you're talking just fine.

7 MS. MORALES: I'm the visionary.  
8 He's the one that does it for me.

9 CHAIRMAN SCALZO: Very good.  
10 I will say to you, sir, if I have  
11 captured the essence of what you're  
12 trying to do, and we have all driven by  
13 and we've seen what you are going to do,  
14 and we see that you have three front  
15 yards.

16 MR. GOODRICH: We didn't know. Now  
17 we're educated that realtors lie to you  
18 and say it's a corner lot, it's  
19 beautiful, you can do all this stuff.  
20 Right up the old --

21 CHAIRMAN SCALZO: I'm not surprised  
22 that a realtor thinks a corner lot is a  
23 good thing. Sitting here, it never is.

24 MR. GOODRICH: It was six parcels  
25 when we bought it.

2 CHAIRMAN SCALZO: No offense to the  
3 gentleman in the back.

4 MR. DONOVAN: I've lived on a  
5 corner lot for twenty-seven years. I  
6 think it's great.

7 MR. GOODRICH: If we would have  
8 left the property as six parcels, would  
9 that still be considered a front yard,  
10 because there would be a front yard,  
11 there would be backyards. Correct?

12 CHAIRMAN SCALZO: You're one tax  
13 bill.

14 MR. GOODRICH: We moved it all onto  
15 one zone -- one parcel when we bought the  
16 house because it was broken up into six.

17 CHAIRMAN SCALZO: A little  
18 consolidation.

19 MR. GOODRICH: Gets her out of the  
20 house, so we want to put a pool up.  
21 She's chronically ill. The doctor says  
22 she needs a pool. I've been saving for a  
23 couple years, got it. Now I'm getting  
24 held up. I wanted it for this summer,  
25 but now I'm probably only going to get a

2 month out of it.

3 CHAIRMAN SCALZO: Lucky for you  
4 that you consolidated the lots. Having  
5 an accessory on a vacant lot, an  
6 accessory to what? You did the right  
7 thing.

8 MR. GOODRICH: That's a good thing.

9 CHAIRMAN SCALZO: I really don't  
10 have an awful lot to say about this. I  
11 drove through the neighborhood. I've  
12 always appreciated the area around there.

13 I'm going to start down with Ms.  
14 Banks. Ms. Banks, do you have questions  
15 or comments on this?

16 MS. BANKS: Not at this time.

17 CHAIRMAN SCALZO: Mr. Eberhart.

18 MR. EBERHART: No issues.

19 CHAIRMAN SCALZO: Mr. Hermance.

20 MR. HERMANCE: Are you going to be  
21 building a deck also along with the pool?

22 MR. GOODRICH: Yes. I would have  
23 done that right along with this if I  
24 would've known this was going to be going  
25 through the Zoning Board and everything.

2 Art Fowler told me I should have  
3 consolidated. I'm not planning on doing  
4 the deck right now because it's quite a  
5 few thousand dollars. I've got to save  
6 up. I'm planning on trying to do it  
7 probably next summer. Now I know I have  
8 to come back and see you guys again  
9 instead of just once. At least I know  
10 what I'm looking at next time. I know I  
11 have to take many, many days off to get  
12 all the paperwork and do all the running  
13 around. I run a facility so it's kind of  
14 hard for me to take off. It's kind of  
15 irritating to me, but I understand.

16 CHAIRMAN SCALZO: Very good. Thank  
17 you.

18 Mr. Bell.

19 MR. BELL: I have no questions.

20 CHAIRMAN SCALZO: Mr. Masten.

21 MR. MASTEN: No questions.

22 CHAIRMAN SCALZO: Ms. Rein.

23 MS. REIN: When I first went  
24 through this, my fault, I thought the  
25 deck was included in it. Other than



2 that, I have no questions.

3 CHAIRMAN SCALZO: Very good.

4 Are there any members of the public  
5 that wish to speak about this?

6 Mr. Fowler, in the back. No  
7 offense to the realtor, sir.

8 MR. FOWLER: No offense taken.

9 Mr. Chairman, Members of the Board,  
10 I'm Art Fowler, I live at 8 Snider  
11 Avenue, kind of diagonally across from my  
12 good neighbors.

13 My wife and I totally support the  
14 approval of this application.

15 CHAIRMAN SCALZO: Thank you for  
16 your input.

17 Please step forward and state your  
18 name.

19 We look forward to hearing from any  
20 members of the public that wish to speak.

21 MR. STERLING: I'm Kevin Sterling,  
22 5 Snider. We share a property line with  
23 one of the front yards. We have no  
24 problem --

25 CHAIRMAN SCALZO: One of the front

2 yards.

3 MR. STERLING: Almost two of the  
4 front yards. We have no issue with it  
5 either.

6 CHAIRMAN SCALZO: Thank you very  
7 much for your comments.

8 MS. REIN: You told them they were  
9 going to go swimming, didn't you?

10 MR. GOODRICH: We told their kids.  
11 We didn't tell them.

12 CHAIRMAN SCALZO: Are there any  
13 other members of the public that wish to  
14 speak about this application?

15 (No response.)

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

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

21 MR. BELL: Second.

22 CHAIRMAN SCALZO: We have a motion  
23 from Mr. Masten. We have a second from  
24 Mr. Bell. All in favor.

25 MS. BANKS: Aye.

2 MR. EBERHART: Aye.

3 MR. HERMANCE: Aye.

4 CHAIRMAN SCALZO: Aye.

5 MR. BELL: Aye.

6 MR. MASTEN: Aye.

7 MS. REIN: Aye.

8 CHAIRMAN SCALZO: Those opposed?

9 (No response.)

10 CHAIRMAN SCALZO: This is a Type 2  
11 action under SEQRA. Correct, Counsel?

12 MR. DONOVAN: Correct, Mr. Chairman.

13 CHAIRMAN SCALZO: We're going to go  
14 through the five factors we're weighing,  
15 the first one being whether or not the  
16 benefit can be achieved by other means  
17 feasible to the applicant.

18 MS. REIN: No.

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

23 MS. BANKS: No.

24 MR. EBERHART: No.

25 MR. HERMANCE: No.

2 MR. BELL: No.

3 MR. MASTEN: No.

4 MS. REIN: No.

5 CHAIRMAN SCALZO: Third, whether  
6 the request is substantial.

7 No. It's hard when you have front  
8 yards to do anything.

9 Fourth, whether the request will  
10 have adverse physical or environmental  
11 effects.

12 MS. REIN: No.

13 CHAIRMAN SCALZO: It does not  
14 appear so.

15 Fifth, whether the alleged  
16 difficulty is self-created, which is  
17 relevant but not determinative. Of  
18 course it's self-created. I enjoyed the  
19 testimony I heard from the applicant  
20 regarding his love for realtors.

21 If the Board approves, it shall  
22 grant the minimum variance necessary and  
23 may impose reasonable conditions.

24 Does the Board have a motion of  
25 some sort?

2 MS. REIN: I'll make a motion to  
3 approve.

4 MR. BELL: Second.

5 CHAIRMAN SCALZO: We have a motion  
6 for approval from Ms. Rein. We have a  
7 second from Mr. Bell.

8 Can you roll on that, please,  
9 Siobhan.

10 MS. JABLESNIK: Ms. Banks.

11 MS. BANKS: Yes.

12 MS. JABLESNIK: Mr. Bell.

13 MR. BELL: Yes.

14 MS. JABLESNIK: Mr. Eberhart.

15 MR. EBERHART: Yes.

16 MS. JABLESNIK: Mr. Hermance.

17 MR. HERMANCE: Yes.

18 MS. JABLESNIK: Mr. Masten.

19 MR. MASTEN: Yes.

20 MS. JABLESNIK: Ms. Rein.

21 MS. REIN: Yes.

22 MS. JABLESNIK: Mr. Scalzo.

23 CHAIRMAN SCALZO: Yes.

24 The motion is carried. The  
25 variances are approved.

2 Good luck, folks.

3 MS. MORALES: Thank you.

4 CHAIRMAN SCALZO: If you need any  
5 guidance, give Siobhan a call.

6 (Time noted: 8:50 p.m.)

7

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

9

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

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

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

20 IN WITNESS WHEREOF, I have hereunto  
21 set my hand this 7th day of July 2025.

22

23

24

25

*Michelle Conero*

---

MICHELLE CONERO

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

ISAAC ROTHERMEL  
BUDGET NEWBURGH, LLC

1420 Route 300, Newburgh  
Section 60; Block 3; Lot 22.222  
IB Zone

----- X

Date: June 26, 2025  
Time: 8:50 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVES: JUSTIN DATES

----- X

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

CHAIRMAN SCALZO: For those that don't know what that means, it means the



2           County has thirty days to weigh in on the  
3           application. If they don't, we, as a  
4           Board, need to hold off on voting until  
5           the County can comment.

6                       MR. DATES: Understood.

7                       Justin Dates, Colliers Engineering  
8                       & Design. I'm here on behalf of the  
9                       applicant, Budget Newburgh, LLC, for the  
10                      four proposed signage variances.

11                     The project had received site plan  
12                     approval back at the end of 2024. They  
13                     are currently under construction. The  
14                     approval that was given by the Planning  
15                     Board excluded the signage at that time  
16                     to move forward with the construction.  
17                     They've come back to the Board with their  
18                     proposed sign package.

19                     I'll explain the variances  
20                     associated with the two proposed  
21                     freestanding signs.

22                     So the lot, many of you know it as  
23                     the former Showtime Cinema site.  
24                     Actually, the signage for the cinema  
25                     remains.

2               There's access to the site via two  
3       locations. The main access is from Route  
4       300, and that was, I'll say, essentially  
5       the main access to the cinema as well.

6               This parcel also has an access via  
7       an easement off of an adjacent parcel to  
8       get to Route 52. There is a sign, the  
9       remaining cinema sign there as well,  
10      that's off that 52 access.

11              Sign D, we'll start with that one,  
12      is the sign that is adjacent to the Route  
13      300 frontage. That's going to be the  
14      main access to the storage facility.  
15      That's the main sign. Within the IB  
16      Zoning District, a project is allowed to  
17      have one freestanding sign. This  
18      particular sign meets all the zoning  
19      requirements with the exception of its  
20      location or setback to the property line.  
21      This particular sign is 30 feet tall,  
22      therefore it is required by zoning to be  
23      30 feet from the property line. We are  
24      looking to maintain the location as the  
25      existing cinema sign stand which is 19.75

feet from the property line. For this particular sign, we're looking for a variance of 10.25 feet to essentially keep the sign where it is except for this new storage use.

MS. REIN: Would the sign be bigger?

MR. DATES: Yes, it is larger.

MS. REIN: Will there be illumination?

MR. DATES: Just internal.

CHAIRMAN SCALZO: Overall height of the sign compared to the cinema sign? I see it says 30 feet to the top. Any idea what it is to the top of the cinema sign?

MR. DATES: Yes. That is 23 feet. It's 7 feet taller.

CHAIRMAN SCALZO: 7 feet taller.

MR. DATES: Visually, the top of the existing cinema sign is roughly where the bottom would be for this proposed storage sign, if that makes sense.

CHAIRMAN SCALZO: Why so tall?

MR. DATES: They have great

2           presence on two State highways. These  
3           facilities are also located quite a bit  
4           back from the building, unlike other  
5           commercial uses along the corridor here.  
6           The office building where you can come in  
7           to do your rentals or that type of  
8           business is over 200 feet from Route 300,  
9           that structure. Whereas from 52, those  
10          structures are 240 feet -- just over 240  
11          feet away from Route 52. If you've been  
12          to the site, you know it's an uphill  
13          approach from 52. You're not going to  
14          see these facilities from that access.  
15          This is why they pursued this site,  
16          because they have frontage and access to  
17          -- I'm sorry. They have access to two  
18          highly traveled State highways. It will  
19          ensure their presence is recognizable in  
20          both of these corridors.

21                 CHAIRMAN SCALZO: Comparatively  
22           speaking, the size of the sign -- right  
23           now I'm focusing on the one on 300.  
24           Other signs, other business signs around  
25           it, comparatively speaking --

2                   MR. DATES:   From a height  
3                   standpoint?

4                   CHAIRMAN SCALZO:   Square footage.

5                   MR. DATES:   I could not definitively  
6                   tell you that there's any that I know  
7                   of comparatively.

8                   CHAIRMAN SCALZO:   How about height?

9                   MR. DATES:   Height, I think that  
10                  the Perkins, Wendy's and Taco Bell, I  
11                  think, are in similar heights to what  
12                  we're requesting here. I point those out  
13                  because those are also single tenant  
14                  signage. It's not like the Newburgh  
15                  Towne Center across the street which is  
16                  multiple tenants on a single signage.

17                  CHAIRMAN SCALZO:   Got you.

18                  I'm going to look down. I'll start  
19                  with Ms. Rein. Any questions on this?

20                  MS. REIN:   No.

21                  CHAIRMAN SCALZO:   Keep in mind the  
22                  public hearing is going to remain open.  
23                  We will have another opportunity to ask  
24                  questions.

25                  I appreciate your presentation

here. It helps me understand a little more by us asking questions.

MR. DATES: I do have the other variances to explain, if you want me to.

CHAIRMAN SCALZO: Please.

MR. DATES: That was the single variance for the Route 300 freestanding sign.

We are also requesting to replace the Route 52 freestanding sign with another sign for the storage tenant. This particular sign has three variances that we've identified. As I mentioned, that access from 52 is through an easement. It's not on the property of the given project. That sign, as it exists today, would not comply with zoning if it were to stay. Since that sign is located off the project site, we would need a variance for that.

The second variance is that within the IB Zoning District you can only have one freestanding sign. This is our second freestanding sign for this

particular project.

This sign as well, again we're looking to maintain it within its location of the existing sign. This one has a setback of 13 -- I'm sorry. It has an 11.75 foot setback. This proposed sign is 25 feet tall. We're looking at a variance of 13.25 feet. That's dealing with the setback from the property line to the sign itself.

CHAIRMAN SCALZO: That's purely for target value.

MR. DATES: That's correct.

CHAIRMAN SCALZO: I've lived in Newburgh my entire life. I've never missed the cinema sign. Just an observation on my part.

We heard from another applicant that actually wasn't here tonight that signs and illumination do make a difference.

MR. DATES: I understand. There are no residential properties around this.

2                   MS. REIN:   Are all the signs going  
3                   to have illumination?

4                   MR. DATES:   The two that we're  
5                   speaking of, yes.

6                   CHAIRMAN SCALZO:   Two so far.  
7                   Okay.

8                   MR. DATES:   Those are the four  
9                   variances that we have before the Board.

10                  MR. BELL:   On Route 52, I mean I  
11                  would think I would see it better at my  
12                  level driving than looking up at it that  
13                  high.   I never missed the cinema sign.

14                  CHAIRMAN SCALZO:   You make a solid  
15                  point.   The other aspect is it turns into  
16                  sign pollution and sign competition.   I  
17                  have to be taller than this guy so they  
18                  can see me.   Anyway, that's a conversation  
19                  for next month.

20                  Mr. Dates, are we through with  
21                  your portion?   The other ones are on  
22                  the structures.

23                  MR. DATES:   Those are zoning compliant.  
24                  We're just -- it's the four I presented.

25                  CHAIRMAN SCALZO:   C and D?



2                   MR. DATES:   Correct.   Can I just  
3                   make one other point?

4                   CHAIRMAN SCALZO:   Please.   They  
5                   yell at me for extending these meetings.  
6                   Talk all you want.

7                   MR. DATES:   To your point, the size  
8                   of these, the height of these are all in  
9                   compliance with the Zoning Code.   What  
10                  we're talking about is its presence or  
11                  location from the property line.   I think  
12                  that -- they are within zoning  
13                  compliance.   I think they are within  
14                  reason for the particular tenant.

15                  CHAIRMAN SCALZO:   Okay.   I'm glad  
16                  you pointed that out, too.   This gives me  
17                  a chance to really dig in even more  
18                  comprehensively and review the  
19                  application that I have.

20                  Mr. Hermance, any questions?   We do  
21                  have an opportunity next month again.

22                  MR. HERMANCE:   I have nothing.

23                  MR. EBERHART:   Nothing.

24                  MS. BANKS:   No.

25                  CHAIRMAN SCALZO:   This is a public

2           hearing.  If anybody wants to speak about  
3           this application with regard to that, we  
4           will be holding this open so you'll have  
5           an opportunity next month.  If anyone is  
6           here now and wants to say anything,  
7           please step forward and state your name.  
8           We welcome your comments.

9                       MR. BAUZA:  Thank you so much.  My  
10           name is John Bauza and I live on 6  
11           Valentine Road in the Town of Newburgh.

12                      I just wanted some clarity.  I know  
13           that the gentleman is talking about the  
14           signs for the storage facility.  My  
15           concern is maybe not with the signs but  
16           with just having more storage facilities,  
17           these types of warehouses, truck traffic.  
18           There's really nothing friendly, family  
19           friendly for the area.

20                      I've been here for thirty years and  
21           it's changed a lot.

22                      As you mentioned, all these signs.  
23           I just don't think that this is a good  
24           move.  That's just my opinion.

25                      CHAIRMAN SCALZO:  Keep in mind,

1  
2 sir, we're here to talk about the signs  
3 only. As far as the storage facilities,  
4 that's a comprehensive plan issue that  
5 has nothing to do with us.

6 MR. BAUZA: Okay. That's why I  
7 asked if it's okay that I mention that,  
8 because I know it's just the signs.

9 CHAIRMAN SCALZO: It now becomes a  
10 matter of record because it's recorded in  
11 the minutes.

12 MR. BAUZA: Thank you so much. I  
13 appreciate it.

14 CHAIRMAN SCALZO: Is there anyone  
15 else from the public that wishes to speak  
16 about this application?

17 (No response.)

18 CHAIRMAN SCALZO: No. All right.  
19 Very good.

20 I'm going to look to the Board for  
21 a motion to hold the public hearing open  
22 until the July 24th meeting. I'll look  
23 to the Board for a motion.

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

2                    MR. MASTEN:   I'll second it.

3                    CHAIRMAN SCALZO:   We have a motion  
4                    from Mr. Bell.   We have a second, before  
5                    you even finished, from Mr. Masten.   All  
6                    in favor.

7                    MS. BANKS:   Aye.

8                    MR. EBERHART:   Aye.

9                    MR. HERMANCE:   Aye.

10                   CHAIRMAN SCALZO:   Aye.

11                   MR. BELL:   Aye.

12                   MR. MASTEN:   Aye.

13                   MS. REIN:   Aye.

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

16                   CHAIRMAN SCALZO:   We'll see you in  
17                   July.

18                   MR. DATES:   Mr. Eberhart, Ms.  
19                   Banks, did they get polled as well?   Did  
20                   I miss that?

21                   CHAIRMAN SCALZO:   As far as  
22                   comments go, I thought I looked that way,  
23                   but I guess I did not.

24                   MR. EBERHART:   You didn't.

25                   CHAIRMAN SCALZO:   Thank you,

2               Mr. Dates.   Please excuse me.

3               Ms. Banks, did you have comments  
4       on this?

5               MS. BANKS:   No.

6               CHAIRMAN SCALZO:   I'm embarrassed.

7               MS. BANKS:   I was just taking  
8       notes.

9               CHAIRMAN SCALZO:   Mr. Eberhart.

10              MR. EBERHART:   I'm good.   No  
11       questions.

12              MR. DONOVAN:   Their feelings are  
13       hurt.

14              CHAIRMAN SCALZO:   I'm trying to get  
15       out of here.

16              MR. DATES:    See you next month.  
17       Thank you.

18

19              (Time noted:   9:05 p.m.)

20

21

22

23

24

25

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 7th day of July 2025.

*Michelle Conero*

---

MICHELLE CONERO

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

MBH DEVELOPMENT GROUP

14 Crossroads Court, Newburgh  
Section 95; Block 1; Lot 74.2  
IB Zone

----- X

Date: June 26, 2025  
Time: 9:05 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVES: JOHN CAPPELLO  
JAMES MARTINEZ

----- X

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

2 CHAIRMAN SCALZO: Held open from  
3 the May 22nd meeting is the MBH  
4 Development Group, 14 Crossroads Court,  
5 a Planning Board referral for area  
6 variances to install signage higher  
7 than the first floor and the location  
8 of the freestanding sign being less  
9 than 15 feet from the property line.

10 This was held open. I myself  
11 missed this meeting. I will be  
12 abstaining from this application, but  
13 I will gladly be the ring leader.

14 MR. CAPPELLO: Good evening. I'm  
15 John Cappello. This is James Martinez,  
16 the project engineer.

17 The hearing was held over last time  
18 for the exact same reason as the prior  
19 one, we were one month ahead of them.  
20 The County comments weren't in. I  
21 believe more than thirty days have passed  
22 now. I'm not sure if any comments were  
23 received or not.

24 MS. JABLESNIK: It was a Local  
25 determination.



1                   MR. CAPPELLO: I did receive the  
2  
3                   County comments.

4                   As another self-storage facility,  
5                   but this is approved, operating, they're  
6                   in the process of making some site plan  
7                   amendments. One of the things they're  
8                   looking at is the replacement of signs.

9                   There's a unique provision in the  
10                  Town's Zoning Code that doesn't allow  
11                  signs over the first floor of a  
12                  commercial building. If this building  
13                  were just a warehouse at the exact same  
14                  height, the signs would be located --  
15                  would be permitted in the exact same  
16                  locations they're proposed. There's a  
17                  mezzanine in the building which makes the  
18                  sign located above the second floor,  
19                  therefore the variance is required.

20                  The signs are sized appropriately.  
21                  They meet the provisions of the Code.  
22                  They are in the same locations as the  
23                  Orange County Chopper signs were located.  
24                  They're not being increased to my  
25                  knowledge.

2           There is a freestanding sign. The  
3           base exists. We would be replacing it.  
4           The base exists a little closer than it  
5           is allowed. It's an existing pylon. We  
6           are just seeking to replace the sign that  
7           exists on the pylon from an Orange County  
8           Choppers sign to a Safe Haven Self-  
9           Storage sign.

10           CHAIRMAN SCALZO: Thank you.

11           MR. BELL: The sign that you're  
12           proposing, the freestanding sign, how  
13           tall is that going to be again?

14           MR. MARTINEZ: The sign face itself  
15           is 63 inches.

16           MR. BELL: I'm talking about from  
17           the ground up.

18           MR. MARTINEZ: I do not have the  
19           overall height of that.

20           MR. CAPPELLO: It exists up there.  
21           We're not increasing the height.

22           MR. MARTINEZ: I do not have that  
23           height. We are not increasing the  
24           height. Everything is just being refaced  
25           for the new business.

2 MS. REIN: I don't know if I asked  
3 this last time. Do the signs have  
4 illumination?

5 MR. MARTINEZ: The freestanding one  
6 is illuminated. We will be just  
7 replacing it with a new illuminated face.

8 MR. BELL: So the freestanding sign  
9 that's currently there, you're putting  
10 your new logo on it and it's going to be  
11 the same height as the existing sign  
12 right now?

13 MR. CAPPELLO: Yes.

14 MS. REIN: I'm going to ask this  
15 again. I think I may have asked this  
16 last time because I have notes here. I  
17 don't remember. I put down no explanation  
18 for question 20. Is it a remediation  
19 site?

20 MR. CAPPELLO: We did look that up  
21 since the last time.

22 MR. MARTINEZ: It's adjacent to the  
23 Orange County Transfer Station on Orr  
24 Avenue next door. I did a little digging  
25 into the history. It did have some spill

2 reports back in like 2008, 2009 that were  
3 closed out. That kind of flags the EAFs.  
4 When you do it on the website, it will  
5 automatically check those boxes. It says  
6 if it pertains to the site or a site  
7 adjacent to it. In this case it would be  
8 the transfer station next door that had  
9 spill reports from 2008, 2009 and were  
10 closed out in 2010.

11 MS. REIN: It's all been resolved?

12 MR. MARTINEZ: Yes. It doesn't  
13 have anything to do with the site itself.  
14 The site next door has, I believe, a bulk  
15 fuel storage permit for the trucks and  
16 stuff. That's all not pertaining to our  
17 site. It's just because it's next door.

18 MS. REIN: Is this a Type 2?

19 MR. DONOVAN: This is a replacement  
20 in kind, so that would make it a Type 2.

21 MR. MASTEN: Did you think about  
22 that sign off Orr Avenue by the transfer  
23 station?

24 MR. CAPPELLO: I think that would  
25 have required another variance. We did

2 let the client know. At some point in  
3 the future they may determine they want  
4 it.

5 MR. MASTEN: If you come in off  
6 17K, all you're going to see is what's on  
7 that building. You're not going to see  
8 anything off Orr Avenue. There's a back  
9 entrance into that place.

10 MR. CAPPELLO: If the applicant  
11 decides they want to put another sign,  
12 they'll have to go through Mr. Mattina  
13 and find out whether they need to come  
14 back here for a variance.

15 MS. REIN: We discussed that last  
16 time. They haven't come back with a  
17 decision?

18 MR. CAPPELLO: They're okay with  
19 what they're proposing.

20 MR. BELL: Now the existing logo,  
21 the Orange County logo that's on there,  
22 you're saying about the second floor.  
23 There's another word that you used.

24 MR. DONOVAN: Mezzanine.

25 MR. BELL: Mezzanine. Thank you.

2 How large is the new sign going to  
3 be? Is it going to be somewhat the same  
4 width and height as the Orange County  
5 Choppers sign?

6 MR. MARTINEZ: There's going to be  
7 no increase in the overall size of the  
8 signage. We have some dimensions here.  
9 This is kind of a sweeping logo. The  
10 maximum with this orange part is 3 foot 9  
11 inches high, 27 feet 1 inch wide. The  
12 blue part under it has a dimension of 29  
13 feet 2 inches wide and 4 foot 2 inches  
14 tall. The Safe Haven Self-Storage logo  
15 itself is 7 feet 5 inches tall, 22 feet 5  
16 inches wide.

17 MR. BELL: The overall diameter,  
18 how much larger is it going to be than  
19 the current logo?

20 MR. MARTINEZ: I don't believe it's  
21 getting any larger. We're just proposing --

22 MR. BELL: Is it illuminated, too?

23 MR. CAPPELLO: I don't believe the  
24 ones on the building will be illuminated.

25 MR. MARTINEZ: I think these are

2 kind of etched into the glass or vinyl.  
3 They're removing that OCC logo.

4 MR. HERMANCE: I have no questions.

5 MR. EBERHART: I'm good.

6 MS. BANKS: No questions.

7 MR. BELL: At this time is there  
8 anybody -- these two ladies and gentleman  
9 are the same ones from Starbucks.

10 Is there anyone else from the  
11 public to speak on this matter?

12 (No response.)

13 MR. BELL: No. Okay.

14 With that said, we'll make a motion  
15 to close the public hearing.

16 MR. EBERHART: So moved.

17 MR. HERMANCE: Second.

18 CHAIRMAN SCALZO: We have a motion  
19 by Mr. Eberhart and a second by Mr. Hermance.  
20 All in favor.

21 MS. BANKS: Aye.

22 MR. EBERHART: Aye.

23 MR. HERMANCE: Aye.

24 MR. BELL: Aye.

25 MR. MASTEN: Aye.

2 MS. REIN: Aye.

3 MR. DONOVAN: It's a Type 2 action  
4 under SEQRA because it's a replacement in  
5 kind.

6 CHAIRMAN SCALZO: The first one  
7 being whether or not the benefit can be  
8 achieved by other means feasible to the  
9 applicant.

10 MS. BANKS: No.

11 MR. EBERHART: No.

12 MR. HERMANCE: No.

13 MR. BELL: No.

14 MR. MASTEN: No.

15 MS. REIN: No.

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

20 MS. BANKS: No.

21 MR. EBERHART: No.

22 MR. HERMANCE: No.

23 MR. BELL: No.

24 MR. MASTEN: No.

25 MS. REIN: No.



2 CHAIRMAN SCALZO: Third, whether  
3 the request is substantial.

4 MR. BELL: It is, but it's not  
5 really.

6 CHAIRMAN SCALZO: Fourth, whether  
7 the request will have adverse physical or  
8 environmental effects.

9 MS. BANKS: No.

10 MR. EBERHART: No.

11 MR. HERMANCE: No.

12 MR. BELL: No.

13 MR. MASTEN: No.

14 MS. REIN: No.

15 CHAIRMAN SCALZO: Fifth, whether  
16 the alleged difficulty is self-created,  
17 which is relevant but not determinative.

18 MR. BELL: With that said, what is  
19 the motion of the Board?

20 MR. MASTEN: I'll make a motion to  
21 accept it.

22 MS. REIN: Second.

23 MR. BELL: We have a motion by  
24 Mr. Masten and a second Ms. Rein.

25 Roll on that, Siobhan.

2 MS. JABLESNIK: Ms. Banks.

3 MS. BANKS: Yes.

4 MS. JABLESNIK: Mr. Bell.

5 MR. BELL: Yes.

6 MS. JABLESNIK: Mr. Eberhart.

7 MR. EBERHART: Yes.

8 MS. JABLESNIK: Mr. Hermance.

9 MR. HERMANCE: Yes.

10 MS. JABLESNIK: Mr. Masten.

11 MR. MASTEN: Yes.

12 MS. JABLESNIK: Ms. Rein.

13 MS. REIN: Yes.

14 CHAIRMAN SCALZO: Mr. Scalzo

15 abstains.

16 MR. BELL: It's approved.

17 MR. CAPPELLO: Thank you very much.

18 CHAIRMAN SCALZO: We've gotten to  
19 the end of the agenda and Lite Brite has  
20 not shown, therefore we will push them  
21 off to next month's meeting on July 24th.

22 You will not be re-noticed. You  
23 won't get any more mailings. You have to  
24 mark your calendars.

25 CHAIRMAN SCALZO: The Board will

2 look for a motion to adjourn.

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

5 MR. MASTEN: I'll second it.

6 CHAIRMAN SCALZO: Very good. A  
7 motion by Mr. Bell and a second by  
8 Mr. Masten. All in favor.

9 MS. BANKS: Aye.

10 MR. EBERHART: Aye.

11 MR. HERMANCE: Aye.

12 CHAIRMAN SCALZO: Aye.

13 MR. BELL: Aye.

14 MR. MASTEN: Aye.

15 MS. REIN: Aye.

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17 (Time noted: 9:15 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 7th day of July 2025.

*Michelle Conero*

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MICHELLE CONERO