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

MARCOS PEREZ
49 Meadow Street, Newburgh
Section 77; Block 10; Lot 11
R-3 Zone

----- X

Date: September 24, 2026
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
LATWAN BANKS (Present at 7:08 p.m.)
JAMES EBERHART, JR.
JOHN MASTEN
JAMES POLITI
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: MARCOS PEREZ
JASON LICHWICK

----- X

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

2 CHAIRMAN SCALZO: I'd like to call
3 the meeting of the Zoning Board of
4 Appeals to order. The order of business
5 this evening are the public hearings
6 which have been scheduled.

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

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

25 Roll call, please.

2 MS. JABLESNIK: Latwan Banks should
3 be here shortly.

4 James Eberhart.

5 MR. EBERHART: Present.

6 MS. JABLESNIK: John Masten.

7 MR. MASTEN: Here.

8 MS. JABLESNIK: James Politi.

9 MR. POLITI: Here.

10 MS. JABLESNIK: Donna Rein.

11 MS. REIN: Here.

12 MS. JABLESNIK: Darrin Scalzo.

13 CHAIRMAN SCALZO: Here.

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

18 CHAIRMAN SCALZO: If you could all
19 please stand for the Pledge.

20 (Pledge of Allegiance.)

21 CHAIRMAN SCALZO: Our first
22 applicant this evening is Marcos Perez,
23 49 Meadow Street, seeking area variances
24 of the maximum height and maximum square
25 footage of an accessory structure to

2 build a 34.7 x 30 x 15.75 two-car garage
3 on the property.

4 Do we have mailings on this,
5 Siobhan?

6 MS. JABLESNIK: This applicant sent
7 67 letters.

8 CHAIRMAN SCALZO: 67. That's quite
9 a bit.

10 Does this qualify for any GML 239?

11 MS. JABLESNIK: No.

12 CHAIRMAN SCALZO: Very good. That
13 means we can continue.

14 Who do we have with us this
15 evening?

16 MR. PEREZ: Marcos Perez.

17 I'll start off by saying I've lived
18 at 49 Meadow Street for fifteen years.
19 My parents own a house a couple houses
20 down. They've been there more than
21 twenty years. I've been in the
22 neighborhood for quite a long time.
23 Everybody seen me grow up. You know,
24 nieces and nephews and everything.

25 Ultimately I have a family of my

2 own. It's growing. I'm just trying to
3 make space while also trying to bring up
4 the value of the property ultimately.

5 CHAIRMAN SCALZO: Thank you.

6 MR. PEREZ: It's my first time
7 doing this.

8 MR. DONOVAN: You're doing great.

9 CHAIRMAN SCALZO: So we are obliged
10 by our positions here to go out and take
11 a look at the properties. I met you out
12 there myself with Mr. Politi the other
13 day.

14 Obviously you need a garage because
15 it appears that your old garage is now
16 part of your living space, so you have
17 nowhere to park your car and other stuff.

18 Looking around the neighborhood,
19 you've got quite a big backyard. It
20 diverges from the front to the back. A
21 lot of space.

22 MR. PEREZ: The idea was to push it
23 back a little bit by the trees and
24 everything, my site line and everything
25 like that.

2 CHAIRMAN SCALZO: Sure. The
3 variance that you're seeking today
4 includes -- one of the things that set it
5 off is you are 17.75 feet high, 15 feet
6 9 inches I'm assuming. 15 feet is the
7 maximum height. That's one.

8 One of the questions with this is,
9 you don't intend to have any living space
10 above the garage, do you?

11 MR. PEREZ: No.

12 CHAIRMAN SCALZO: It's only 9
13 inches higher than what code allows.

14 MR. PEREZ: It's simply for
15 storage. Like I said, I'm trying to
16 maximize the square footage of the house.
17 Like I said, the family is growing. I'm
18 just trying to maximize. This is just
19 all for storage, keep everything above,
20 garden tools and everything, in the
21 garage.

22 CHAIRMAN SCALZO: Sure. As we
23 discussed when we were in the field, the
24 addition to the back of your home, you
25 don't need any variances for that at all.

2 This is purely just for the two-car
3 garage.

4 I don't have any other questions.

5 I'm going to look to my right.

6 Mr. Eberhart, do you have any questions
7 or comments for this applicant?

8 MR. EBERHART: The globe chandelier
9 in your house, that's what I was looking
10 at when I pulled up, I guess it was a
11 Sunday morning.

12 MR. PEREZ: You mean from the front
13 of the house to the kitchen?

14 MR. EBERHART: Yeah, yeah.

15 MR. PEREZ: That's my wife. It's a
16 statement piece, you know.

17 MR. EBERHART: Other than that, I
18 have no questions.

19 MR. PEREZ: I appreciate it. Thank
20 you.

21 CHAIRMAN SCALZO: Going to my left;
22 Mr. Politi, any questions or comments for
23 the applicant?

24 MR. POLITI: No. No questions.

25 CHAIRMAN SCALZO: Mr. Masten.

2 MR. MASTEN: I have nothing.

3 CHAIRMAN SCALZO: Ms. Rein.

4 MS. REIN: I just wanted to make
5 sure that it's not going to be turned
6 into a living space.

7 MR. PEREZ: No living space. Just
8 a place to park the cars and store
9 everything. I'm trying to get the kids
10 out. Once they cross, that's it.

11 CHAIRMAN SCALZO: Very good.

12 Okay. At this time we're going to
13 open it up to any members of the public
14 that are here this evening. Anybody here
15 that wishes to comment on the Perez
16 application at 49 Meadow Street, now is
17 your opportunity.

18 Please come forward, state your
19 name and let us know your comments.

20 MR. PHILLIPS: My name is James
21 Phillips. I live in the neighborhood.

22 I'm glad to hear that you're trying
23 to use the property.

24 I think some of the neighbors are
25 concerned with what you do to the house,

2 the ones most close to your house. So
3 if that's the diagram, it looks like
4 the street is on the right and your
5 back property is on the left.

6 CHAIRMAN SCALZO: That is correct.

7 MR. PHILLIPS: I didn't get to
8 review the distance, but the distance
9 from the garage to the house is
10 approximately how many feet?

11 MR. LICHWICK: 45 feet.

12 MR. PHILLIPS: And from the back of
13 the garage to the back property line?

14 MR. LICHWICK: 83 feet. We're also
15 keeping it 15 feet off the property line
16 where 5 feet is permitted.

17 MR. PHILLIPS: I think some of the
18 questions that the neighborhood shared
19 was, that you've already answered, you
20 don't intend it to be extra living space.
21 It did seem rather large. I heard
22 two-car garage.

23 Do you think the space will be used
24 for any business of any sort, or other
25 cars to be worked on, or create noise in

2 the neighborhood?

3 Is it fair to ask that question?

4 CHAIRMAN SCALZO: Sure it is.

5 MR. PEREZ: Just a two-car garage.

6 CHAIRMAN SCALZO: Vehicle and
7 garden tool storage, as the applicant
8 indicated.

9 (Whereupon, Ms. Banks joined the
10 meeting.)

11 MR. PEREZ: I'm a bit of a neat
12 freak. I'm just trying to keep
13 everything in the garage organized and
14 the house nice and clean.

15 MR. PHILLIPS: I appreciate that.
16 Thank you.

17 CHAIRMAN SCALZO: Thank you.

18 I did have one question, as I was
19 just reminded as he was asking for
20 dimensions on there.

21 Your offsets are very specific, but
22 there's no indication on your plan where
23 you obtained the survey information.

24 MR. LICHWICK: I knew that was
25 coming. It was obtained from a survey

2 completed by Howard Weeden in 2020.

3 CHAIRMAN SCALZO: Very good. Okay.
4 So the offset dimensions to, I'll say the
5 right side of the house as you're facing
6 it on your plan match the dimensions on
7 Mr. Weeden's survey?

8 MR. LICHWICK: Yes.

9 CHAIRMAN SCALZO: All right. Again,
10 future reference, if you could put that
11 on the plan.

12 MR. LICHWICK: I typically do. The
13 survey was for the previous owner, but it
14 was referenced from that survey in 2020.

15 CHAIRMAN SCALZO: That's fine.

16 Counsel, any questions here?

17 MR. DONOVAN: No.

18 CHAIRMAN SCALZO: Are there any
19 other members of the public that wish to
20 comment or ask questions about this
21 application?

22 (No response.)

23 CHAIRMAN SCALZO: It does not
24 appear so.

25 I'll look to the Board for a motion

2 to close the public hearing.

3 MR. EBERHART: I'll make a motion
4 to close the public hearing.

5 MR. POLITI: I'll second it.

6 CHAIRMAN SCALZO: We have a motion
7 from Mr. Eberhart. We have a second from
8 Mr. Politi.

9 Please note for the minutes that
10 Ms. Banks arrived at approximately 7:08
11 p.m.

12 So we have a motion and a second.
13 All in favor for closing the public
14 hearing.

15 MS. BANKS: Aye.

16 MR. EBERHART: Aye.

17 CHAIRMAN SCALZO: Aye.

18 MR. POLITI: Aye.

19 MR. MASTEN: Aye.

20 MS. REIN: Aye.

21 CHAIRMAN SCALZO: Those opposed.

22 (No response.)

23 CHAIRMAN SCALZO: Very good.

24 This is a Type 2 action under
25 SEQRA. Correct, Counsel?

2 MR. DONOVAN: Correct, Mr. Chairman.

3 CHAIRMAN SCALZO: Thank you, sir.

4 Therefore we're going to go through
5 the area variance criteria and discuss
6 the five factors that we're weighing, the
7 first one being whether or not the
8 benefit can be achieved by other means
9 feasible to the applicant. Can the
10 benefit be achieved by other means.
11 Well, he just incorporated his old garage
12 into his living space, so now he doesn't
13 have a garage. He's trying to realize
14 that benefit. I would say no.

15 Am I getting nods or shakes?

16 MR. POLITI: Yes, I agree.

17 CHAIRMAN SCALZO: Thank you.

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

21 MS. REIN: No.

22 CHAIRMAN SCALZO: I would say no.

23 The third, whether the request is
24 substantial. Well, if you go by the
25 numbers, you could say so. Having

2 visited the property and looking at the
3 layout of where the garage is with the
4 amount of property that's going to be
5 surrounding it, I don't think so.

6 MS. BANKS: Agreed.

7 MR. EBERHART: I agree that it's
8 not significant.

9 CHAIRMAN SCALZO: The fourth,
10 whether the request will have adverse
11 physical or environmental effects. It
12 does not appear they will.

13 The fifth, whether the alleged
14 difficulty is self-created which is
15 relevant but not determinative. Of
16 course it's self-created.

17 Having gone through the balancing
18 tests, does the Board have a motion of
19 some sort?

20 MR. EBERHART: I'll make a motion
21 for approval.

22 MS. BANKS: I'll second it.

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

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

4 MS. JABLESNIK: Ms. Banks.

5 MS. BANKS: Yes.

6 MS. JABLESNIK: Mr. Eberhart.

7 MR. EBERHART: Yes.

8 MS. JABLESNIK: Mr. Masten.

9 MR. MASTEN: Yes.

10 MS. JABLESNIK: Mr. Politi.

11 MR. POLITI: Yes.

12 MS. JABLESNIK: Ms. Rein.

13 MS. REIN: Yes.

14 MS. JABLESNIK: Mr. Scalzo.

15 CHAIRMAN SCALZO: Yes.

16 The motion is carried. The
17 variances are approved. Good luck.

18 MR. PEREZ: I appreciate it. Thank
19 you.

20

21 (Time noted: 7:12 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 October 2026.

Michelle Conero

MICHELLE CONERO

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

EDWARD McELVANEY
49 Frozen Ridge Road, Newburgh
Section 20; Block 1; Lot 17
R-2 Zone

----- X

Date: September 24, 2026
Time: 7:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: EDWARD McELVANEY

----- X

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

2 CHAIRMAN SCALZO: Our second
3 applicant this evening is Edward
4 McElvaney, 49 Frozen Ridge Road,
5 seeking area variances of the front
6 yard setback because it is a corner
7 lot, even though that was hard to
8 distinguish when we were out there, --

9 MR. McELVANEY: I know.

10 CHAIRMAN SCALZO: -- and a rear
11 yard setback to remove an existing
12 non-permitted rear deck built by the
13 prior owner --

14 MR. McELVANEY: Two prior owners.

15 CHAIRMAN SCALZO: Hang on. I'll
16 let you talk in a moment. She doesn't
17 know who you are yet.

18 -- built by the prior, prior owner
19 -- I covered you -- and replace it with a
20 new 12 x 53 deck.

21 Do we have mailings on this,
22 Siobhan?

23 MS. JABLESNIK: This applicant sent
24 26 letters.

25 CHAIRMAN SCALZO: 26 letters. Not

2 the winner so far.

3 All right. So if I have captured
4 everything that you're looking to do in
5 that single sentence, then we can just
6 start asking questions.

7 It appears for you folks, other
8 Members of the Board, that there's a
9 private road next to him. As you walk
10 his driveway around the house to the
11 left, there's a private road on that
12 side. In essence he does have two front
13 yards.

14 In this instance you're not going
15 any deeper than the current deck is
16 towards your back property line?

17 MR. McELVANEY: Correct.

18 CHAIRMAN SCALZO: You're looking to
19 extend it the entire width of the rear of
20 the home?

21 MR. McELVANEY: A little bit shorter.
22 16 feet more. A little shorter.

23 CHAIRMAN SCALZO: So in essence,
24 other than that part of the house -- that
25 part of the deck that no one would see

2 anyway, there's really not much more
3 going on. Correct?

4 MR. McELVANEY: Right.

5 CHAIRMAN SCALZO: I have no other
6 questions.

7 I'm going to start to my left this
8 time. Ms. Rein.

9 MS. REIN: What did you say, 16 feet?

10 MR. McELVANEY: It's an extra 16
11 feet. That's still not even reaching the
12 end of the house.

13 MS. REIN: Thank you.

14 CHAIRMAN SCALZO: No further out
15 than the current deck is.

16 Ms. Rein, you're good?

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

18 CHAIRMAN SCALZO: Mr. Masten.

19 MR. MASTEN: I'm good.

20 CHAIRMAN SCALZO: Mr. Politi.

21 MR. POLITI: I'm good.

22 CHAIRMAN SCALZO: Mr. Eberhart.

23 MR. EBERHART: No questions.

24 CHAIRMAN SCALZO: Ms. Banks.

25 MS. BANKS: No questions.

2 CHAIRMAN SCALZO: Very good.

3 At this point I'm going to open it
4 up to any members -- Michelle, I'm sorry.
5 Did the applicant state his name for you?

6 THE REPORTER: No, he didn't.

7 MR. McELVANEY: Ed McElvaney.

8 CHAIRMAN SCALZO: At this point I'm
9 going to open it up to any members of the
10 public that wish to speak about this
11 application.

12 (No response.)

13 CHAIRMAN SCALZO: It does not
14 appear so. Very good.

15 I'll look to the Board one more
16 time.

17 (No response.)

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

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

23 MS. REIN: I'll second it.

24 CHAIRMAN SCALZO: We have a motion
25 to close from Mr. Masten. We have a

2 second from Ms. Rein. All in favor.

3 MS. BANKS: Aye.

4 MR. EBERHART: Aye.

5 CHAIRMAN SCALZO: Aye.

6 MR. POLITI: Aye.

7 MR. MASTEN: Aye.

8 MS. REIN: Aye.

9 CHAIRMAN SCALZO: Those opposed.

10 (No Response.)

11 CHAIRMAN SCALZO: Very good.

12 You heard it before and you're
13 going to hear it again. We're going to
14 go through the five factors because this
15 is a Type 2 action under SEQRA.

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

18 CHAIRMAN SCALZO: The first one
19 being whether or not the benefit can be
20 achieved by other means feasible to the
21 applicant. I'd say no.

22 MS. REIN: No.

23 CHAIRMAN SCALZO: Second, if
24 there's an undesirable change in the
25 neighborhood character or a detriment

2 to nearby properties. When you walk
3 around there, I don't think you can
4 see anybody from your backyard.

5 Third, whether request is
6 substantial. Not really. By the
7 numbers, perhaps. When you look at
8 the yard, not really.

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

12 MS. REIN: No.

13 MR. EBERHART: No.

14 CHAIRMAN SCALZO: Fifth, whether
15 the alleged difficulty is self-created
16 which is relevant but not determinative.
17 Well, it was created by the prior, prior
18 owner for that one portion of the deck.
19 The additional footage that he wants to
20 throw on there, of course it's self-
21 created.

22 So having gone through the
23 balancing tests of the area variance,
24 does the Board have a motion of some
25 sort?

2 MR. EBERHART: I'll make a motion
3 for approval.

4 MS. BANKS: I'll second.

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

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

10 MS. JABLESNIK: Ms. Banks.

11 MS. BANKS: Yes.

12 MS. JABLESNIK: Mr. Eberhart.

13 MR. EBERHART: Yes.

14 MS. JABLESNIK: Mr. Masten.

15 MR. MASTEN: Yes.

16 MS. JABLESNIK: Mr. Politi.

17 MR. POLITI: Yes.

18 MS. JABLESNIK: Ms. Rein.

19 MS. REIN: Yes.

20 MS. JABLESNIK: Mr. Scalzo.

21 CHAIRMAN SCALZO: Yes.

22 The motion is carried. The
23 variances are approved. Good luck, sir.

24 MR. McELVANEY: Thank you.

25 (Time noted: 7:16 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 October 2026.

Michelle Conero

MICHELLE CONERO

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

WCI ENTERPRISES II, LLC
SHAWN JACKSON

205 Candlestick Hill Road, Newburgh
Section 7; Block 1; Lot 46
AR Zone

----- X

Date: September 24, 2026
Time: 7:17 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: SHAWN JACKSON

----- X

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

2 CHAIRMAN SCALZO: Our third
3 applicant this evening is WCI Enterprises,
4 LLC at 205 Candlestick Hill Road in
5 Newburgh, seeking an area variance of
6 maximum square footage of accessory
7 structures to build a 26 x 34 x 14.7
8 detached garage.

9 Siobhan, do we have mailings on
10 this?

11 MS. JABLESNIK: This applicant sent
12 24 letters.

13 CHAIRMAN SCALZO: 24 letters. Okay.
14 Who do we have with us?

15 MR. JACKSON: My name is Shawn
16 Jackson. I'm the property owner.

17 CHAIRMAN SCALZO: Very good.

18 Mr. Jackson, I was confused because
19 when I went out there, the application
20 says 205 but on the mailbox it says
21 something very different.

22 MR. JACKSON: It's a very old
23 property. It was part of like the Cosman
24 farm in that area. The barn that you saw
25 was a 150 year old barn. You know, the

2 house across the street, the whitish/
3 yellow house, used to be part of the farm
4 and the family. The older properties do
5 have some confusing mailing addresses.
6 It's known as 241. On the tax record
7 it's 205. On Google, if you were to type
8 in 241, it would take you up over the
9 hill on the other side of Candlestick
10 Hill Road. A little bit of back history
11 there.

12 CHAIRMAN SCALZO: I love it.

13 So actually, sit tight. I've got
14 to ask Joe Mattina here, and Siobhan said
15 this to me but I actually want to make it
16 a matter of record so everybody can
17 understand.

18 Typically when we get an application
19 and there are other areas of the property
20 that would need variances, i.e. the house
21 is in front of the front yard setback
22 line, the barn is actually in the right-
23 of-way itself, how come we're not
24 talking about any of those, or is it
25 because it's a completely separate

2 structure that has nothing to do with
3 the living space?

4 MR. MATTINA: If he was going for
5 a site plan or a lot line change or
6 something, you could grandfather him,
7 but you wouldn't do it in this instance
8 because you're just adding on to what's
9 there.

10 CHAIRMAN SCALZO: Adding on to
11 what's there.

12 MR. MATTINA: Right. He's
13 requesting extra square footage over
14 what's already existing. If this was
15 before the Planning Board, he would have
16 come for all the variances, if he was
17 going for amended site plan or a lot line
18 change. Just for an area variance he
19 wouldn't lose the grandfathering of the
20 existing structures.

21 CHAIRMAN SCALZO: Fair enough. I
22 don't want to make any extra work.

23 Yes, you were right, Siobhan.

24 MS. JABLESNIK: That makes sense,
25 too. But also, say they were doing like

2 an apartment somewhere, that would also
3 bring in those other variances?

4 MR. MATTINA: If it was in a house,
5 yes.

6 MS. JABLESNIK: Okay. So I was
7 right.

8 MR. DONOVAN: Let the record reflect.

9 MS. JABLESNIK: Yes, let the record
10 reflect.

11 CHAIRMAN SCALZO: I visited the
12 site, walked around and saw some stakes
13 in the ground.

14 A question for you. Where is the
15 septic for the existing dwelling that's
16 there?

17 MR. JACKSON: It is behind that
18 space.

19 CHAIRMAN SCALZO: It looked like it
20 could have been soft at one point.

21 MR. JACKSON: Yes. Yes.

22 CHAIRMAN SCALZO: You're asking for
23 the variance already and you're --
24 encroaching is the wrong word. If you're
25 not meeting the front yard setback, why

2 wouldn't you bring that closer to the
3 road? The proposed garage, why wouldn't
4 you bring that closer to the road?
5 You're fighting grade where you are.

6 MR. JACKSON: I just walked the
7 space, looked around and, just like
8 anyone makes decisions, felt that this
9 was a good place. It didn't impact the
10 leach field or the tank. You know, just
11 sort of focusing on the lay of the land.
12 There's enough space to get off the
13 street, have some time to look around. I
14 do have the ability to shift forward,
15 back, sideways. There's really no in-
16 love moment for me, like 10 feet left,
17 right, back or side. Whenever you're
18 making a decision, you ultimately have to
19 make a decision. There wasn't a lot of
20 compassion behind the decision.

21 CHAIRMAN SCALZO: Thank you for
22 saying.

23 MR. JACKSON: I walked around and
24 put one stake in the ground.

25 MR. EBERHART: He should have moved

2 it forward, closer to --

3 CHAIRMAN SCALZO: No. The issue is
4 because the size of the structure would
5 remain the same. That's really why it's
6 here.

7 MR. EBERHART: Right. He's saying
8 if he moved it more in line with the
9 front of the structure, wouldn't that --

10 CHAIRMAN SCALZO: Then he wouldn't
11 have a turnaround in front, if you look
12 at the layout of the garage.

13 You answered my question.

14 Not that you plan on any septic
15 failing, but you're kind of losing some
16 area, that if the septic failed in the
17 primary dwelling, now you've got to
18 figure something else out.

19 MR. JACKSON: Correct. Correct.

20 CHAIRMAN SCALZO: Other than that,
21 it's pretty straightforward.

22 MR. JACKSON: Yeah.

23 CHAIRMAN SCALZO: How the culvert
24 goes under the barn is awesome.

25 Anyway, I don't have any questions.

2 I'll start down at my right side
3 there. Ms. Banks, do you have any
4 questions or comments?

5 MS. BANKS: No questions.

6 CHAIRMAN SCALZO: How about you,
7 Mr. Eberhart.

8 MR. EBERHART: I'm good.

9 CHAIRMAN SCALZO: Mr. Politi.

10 MR. POLITI: No.

11 CHAIRMAN SCALZO: Mr. Masten.

12 MR. MASTEN: No.

13 CHAIRMAN SCALZO: Ms. Rein.

14 MS. REIN: I do. I'm a little
15 confused. Is this a residence?

16 MR. JACKSON: Yeah. My parents are
17 moving in.

18 MS. REIN: Okay. Because this is
19 WCI Enterprises II, LLC?

20 MR. JACKSON: Yeah. I'm a real
21 estate investor. I do have twenty-five
22 properties and seven LLCs, due to just
23 liability reasons, which many investors
24 do.

25 MS. REIN: It says that this one is

2 registered as a corporate entity linked
3 to the property at 205 Candlestick. So
4 there's no business going on there?

5 MR. JACKSON: No. It's like LLCs
6 for real estate. If it's not your
7 primary residence, you put it in an LLC
8 for the liability reasons of that. It's
9 very, very common. I don't know too many
10 real estate investors that don't do that.

11 MS. REIN: Why is it registered to
12 this property in particular if you have
13 multiple properties?

14 MR. JACKSON: Because it owns it.
15 WCI Enterprises owns the property.

16 MS. REIN: Owns the residence?

17 MR. JACKSON: Owns the property.
18 Am I misunderstanding something?

19 MS. REIN: I just want to make sure
20 that it's not a business.

21 MR. JACKSON: WCI is not a business.
22 WCI is a holding company for real estate.
23 It owns 58 Leroy in the City of Newburgh.
24 It owns 44 Spruce Street in the City
25 of Poughkeepsie. It's a liability

2 company for real estate. There's no
3 employees. There's no nothing.

4 MS. REIN: Thank you.

5 MR. JACKSON: I do own businesses,
6 but --

7 MS. REIN: That's not one of them?

8 MR. JACKSON: Not this, no.

9 MR. DONOVAN: Let me say a couple
10 things. Number one, an entity, a
11 corporation or a limited liability
12 company, may own residential property.

13 MS. REIN: Okay. So it's not even
14 an issue?

15 MR. DONOVAN: Well, except,
16 Shawn, --

17 MR. JACKSON: Yes.

18 MR. DONOVAN: -- the deed you
19 submitted, consistent with the testimony
20 you gave, says that you own the property,
21 not WCI.

22 MR. JACKSON: I potentially
23 submitted the wrong deed. At one point
24 I did own it. It was one of my first
25 properties that I ever purchased as a

2 young man. Since then I refinanced
3 it and then placed it --

4 MR. DONOVAN: I don't particularly
5 care. I just want the record to be
6 accurate as to whether it's A, B, C,
7 E-I-E-I-O.

8 MR. JACKSON: It is owned by WCI
9 Enterprises. If you have a deed that
10 states differently --

11 MR. DONOVAN: I just have what you
12 gave us.

13 CHAIRMAN SCALZO: That's the one
14 you submitted. Okay.

15 And again, that's not, as Counsel
16 mentioned -- I haven't had that question
17 before. The home I'm in is in a trust.

18 MS. REIN: I'm sorry?

19 CHAIRMAN SCALZO: The home I'm in
20 is in a trust.

21 MS. REIN: Me, too.

22 CHAIRMAN SCALZO: I don't have any
23 other questions. That was Ms. Rein that
24 was last. I started down on the other
25 side.

2 Is there anyone from the public
3 that wishes to speak about this
4 application?

5 (No response.)

6 CHAIRMAN SCALZO: It does not
7 appear so.

8 All right. I'll look to the Board
9 one more time.

10 (No response.)

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

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

16 MR. EBERHART: Second.

17 CHAIRMAN SCALZO: I thought I heard
18 a motion from Mr. Masten. I thought I
19 heard a second from Mr. Eberhart.

20 MR. EBERHART: You did.

21 CHAIRMAN SCALZO: All in favor.

22 MS. BANKS: Aye.

23 MR. EBERHART: Aye.

24 CHAIRMAN SCALZO: Aye.

25 MR. POLITI: Aye.

2 MR. MASTEN: Aye.

3 MS. REIN: Aye.

4 CHAIRMAN SCALZO: Those opposed.

5 (No response.)

6 CHAIRMAN SCALZO: Very good.

7 Here we go again with the Type 2
8 action under SEQRA, the five factors, the
9 first one being whether or not -- before
10 I do that, you mentioned your folks were
11 moving back.

12 MR. JACKSON: Yeah.

13 CHAIRMAN SCALZO: To live in the
14 dwelling, not the garage?

15 MR. JACKSON: Correct. My father
16 has a very old car that means a lot to
17 him and my mother is struggling, so
18 trying to find some suitable --

19 CHAIRMAN SCALZO: I wanted to make
20 sure you weren't throwing them in the
21 garage with a couple buckets of water.

22 MR. JACKSON: No. Just trying to
23 keep the family together.

24 CHAIRMAN SCALZO: Got you. Okay.
25 Now I feel better.

2 The first one being whether or not
3 the benefit can be achieved by other
4 means feasible to the applicant. I would
5 say no.

6 Second, if there's an undesirable
7 change in the neighborhood character or a
8 detriment to nearby properties. I'll
9 also say no.

10 Third, whether the request is
11 substantial. It's only substantial
12 because of that great big barn eating up
13 all the square footage. What an odd-
14 shaped lot.

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

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

22 So having gone through the
23 balancing tests, does the Board have a
24 motion of some sort?

25 MR. EBERHART: I'll make a motion

2 for approval.

3 MR. POLITI: I'll second.

4 CHAIRMAN SCALZO: We have a motion
5 for approval from Mr. Eberhart. We have
6 a second from Mr. Politi.

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

9 MS. JABLESNIK: Ms. Banks.

10 MS. BANKS: Yes.

11 MS. JABLESNIK: Mr. Eberhart.

12 MR. EBERHART: Yes.

13 MS. JABLESNIK: Mr. Masten.

14 MR. MASTEN: Yes.

15 MS. JABLESNIK: Mr. Politi.

16 MR. POLITI: 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 variances are approved. Good luck.

23 MR. JACKSON: Thank you.

24

25 (Time noted: 7:30 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of October 2026.

Michelle Conero

MICHELLE CONERO

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

WILLIAM & JOAN LENNON
24 Calvin Lane, Newburgh
Section 8; Block 1; Lot 85.4
AR Zone

----- X

Date: September 24, 2026
Time: 7:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: WILLIAM LENNON

----- X

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

2 CHAIRMAN SCALZO: Our next applicant
3 is William and Joan Lennon, 24 Calvin
4 Lane, seeking an area variance to allow
5 a 10 x 14 accessory building to be
6 installed in the front yard.

7 Mailings on this, Siobhan?

8 MS. JABLESNIK: This applicant mailed
9 29 letters.

10 CHAIRMAN SCALZO: 29 letters. Okay.
11 So who do we have with us?

12 MR. LENNON: William Lennon.

13 CHAIRMAN SCALZO: Okay, Mr. Lennon.
14 If I've captured everything you're
15 looking to do in that single sentence, we
16 can go ahead and continue with our meeting.
17 If you would like to add some color
18 commentary to it, feel free.

19 MR. LENNON: We live at the end of
20 a quarter mile long private road, and off
21 of that, on the very end, I have a 300-
22 foot driveway off of that. Only two
23 neighbors can actually see this shed.
24 There's no through traffic. That's as
25 close as we can get it to the house. The

2 rest of the whole backyard is deer fence.

3 CHAIRMAN SCALZO: I saw that. I do
4 believe I commented to Joe, boy, that's
5 quite a hike to drag your garbage cans
6 out to the end of the driveway.

7 MR. LENNON: I have a tractor I
8 take them with.

9 CHAIRMAN SCALZO: You had it laid
10 out well. The gravel is already in place
11 for where you hope to put it, and you are
12 -- I agree with your statement, that you
13 really can't see it from anywhere else.
14 It's private back there.

15 I don't have any comments.

16 Ms. Banks, do you have any?

17 MS. BANKS: No.

18 CHAIRMAN SCALZO: Mr. Eberhart.

19 MR. EBERHART: No. It's quite an
20 experience going out there.

21 MS. BANKS: It's beautiful.

22 CHAIRMAN SCALZO: I've never been
23 down there. I was never down Lockwood.
24 Been here my whole life and never been
25 down that road.

2 Mr. Politi.

3 MR. POLITI: No. It's a beautiful
4 property.

5 CHAIRMAN SCALZO: Mr. Masten.

6 MR. MASTEN: I have no questions.
7 It's a beautiful spot.

8 CHAIRMAN SCALZO: It doesn't appear
9 to be mucking up anybody's view shed,
10 that's for sure, where that shed is going
11 to be.

12 Ms. Rein.

13 MS. REIN: I'm good.

14 CHAIRMAN SCALZO: I'm going to ask
15 any members of the public that wish to
16 speak about this application, right now
17 is your opportunity.

18 (No response.)

19 CHAIRMAN SCALZO: Guess what you're
20 going to hear again. This is a Type 2
21 action under SEQRA and we're going to
22 discuss our five factors, the first one
23 being whether or not this benefit can be
24 achieved by other means feasible to the
25 applicant. Well, you might be able to

2 put it in the back, but then they've got
3 to navigate a slope to get down there,
4 remove some fence.

5 Anyway, second, if there's an
6 undesirable change in the neighborhood
7 character or a detriment to nearby
8 properties.

9 MS. BANKS: No.

10 MR. EBERHART: No.

11 MR. MASTEN: No.

12 CHAIRMAN SCALZO: Third, whether
13 the request is substantial. Well, it's
14 in the front yard. We have struggled
15 with that on other applications. This
16 one is very different because it is so
17 private. The private road, the 300-foot
18 driveway, it almost doesn't feel like
19 it's your front yard.

20 I'm trying to help out.

21 MR. DONOVAN: Okay. I appreciate
22 that.

23 CHAIRMAN SCALZO: The fourth,
24 whether the request will have adverse
25 physical or environmental effects. It

2 does not appear so.

3 The fifth, whether the alleged
4 difficulty is self-created which is
5 relevant but not determinative. Of
6 course it's self-created.

7 Therefore, having gone through the
8 balancing tests of the area variance,
9 does the Board have a motion of some
10 sort?

11 MS. BANKS: I'll make a motion to
12 approve.

13 MR. EBERHART: I'll second it.

14 CHAIRMAN SCALZO: We have a motion
15 for approval by Ms. Banks. We have a
16 second by Mr. Eberhart.

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

19 MS. JABLESNIK: Ms. Banks.

20 MS. BANKS: Yes.

21 MS. JABLESNIK: Mr. Eberhart.

22 MR. EBERHART: Yes.

23 MS. JABLESNIK: Mr. Masten.

24 MR. MASTEN: Yes.

25 MS. JABLESNIK: Mr. Politi.

2 MR. POLITI: Yes.

3 MS. JABLESNIK: Ms. Rein.

4 MS. REIN: Yes.

5 MS. JABLESNIK: Mr. Scalzo.

6 CHAIRMAN SCALZO: Yes.

7 The motion is carried. The
8 variances are approved.

9 MR. LENNON: Thank you.

10 CHAIRMAN SCALZO: I really like
11 that retro trailer you had out there.
12 That was pretty cool.

13 MR. LENNON: I like it, too.

14 MS. JABLESNIK: Correction. This
15 applicant only sent 13 letters.

16

17 (Time noted: 7:35 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 October 2026.

Michelle Conero

MICHELLE CONERO

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

FREDERICK POWLIS JR.
517 Fostertown Road, Newburgh
Section 18; Block 6; Lot 6
AR Zone

----- X

Date: September 24, 2026
Time: 7:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: FREDERICK POWLIS JR.

----- X

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

2 CHAIRMAN SCALZO: We have next
3 Frederick Powlis Junior, 517 Fostertown
4 Road, seeking an area variance to allow a
5 24 x 25 x 13 accessory building in the
6 front yard.

7 Siobhan, mailings on this?

8 MS. JABLESNIK: This applicant sent
9 29 letters.

10 CHAIRMAN SCALZO: Okay.

11 MS. JABLESNIK: We have not received
12 County back yet.

13 CHAIRMAN SCALZO: Okay.

14 MS. JABLESNIK: I haven't received
15 County back on any of my applications.
16 Well, any of these last ones that were
17 within the County. Fostertown Road is a
18 County road.

19 CHAIRMAN SCALZO: Fostertown Road
20 is a County road. General Municipal Law
21 239 prevents us from voting on your
22 application until the County has had an
23 opportunity to review the application as
24 well. What we're going to do is we're
25 going to talk about your application

2 tonight. Any questions that we have may
3 be revealed as we're asking questions,
4 but unfortunately we cannot act on your
5 application in its entirety tonight.

6 So that being said, we were out
7 taking a look around. Where you had
8 proposed your garage to be is the least
9 topographically challenging area on your
10 property.

11 As I was pulling out and taking a
12 right to go back down towards to the
13 east, I want to say two houses away
14 there's a great big two-car garage right
15 across the street, --

16 MR. POWLIS: Right on the road.

17 CHAIRMAN SCALZO: -- right down the
18 road from you. So you're not trying to
19 do anything that's out of the, I'll say,
20 ordinary. It looks -- as far as the
21 character of the neighborhood, because
22 you're on that County road, it's not
23 really a residential, serpentine-type
24 subdivision. I'm not going to call it
25 commercial, but it's a higher speed

2 highway.

3 MR. POWLIS: 45.

4 CHAIRMAN SCALZO: And then right
5 next door to you you have rental
6 apartments, I believe, --

7 MR. POWLIS: Yes.

8 CHAIRMAN SCALZO: -- and a large
9 structure.

10 MR. POWLIS: The guy actually owns
11 three different --

12 CHAIRMAN SCALZO: I assume that's
13 why you have the stockade fence up, just
14 to keep your privacy as you can.

15 I have no comments.

16 Obviously should this move forward,
17 you're going to have to move the electric.

18 MR. POWLIS: Yes.

19 CHAIRMAN SCALZO: Jim and I noticed
20 that when we were out there.

21 I'm going to start down on my left.
22 Ms. Rein, do you have any comments or
23 questions on this application?

24 MS. REIN: No.

25 CHAIRMAN SCALZO: Did you see that

2 big garage on the other side of the
3 street, too?

4 MS. REIN: I live right near there.

5 CHAIRMAN SCALZO: I didn't know
6 that. So you're very familiar.

7 Mr. Masten.

8 MR. MASTEN: I have nothing.

9 CHAIRMAN SCALZO: Mr. Politi.

10 MR. POLITI: I'm good.

11 CHAIRMAN SCALZO: Mr. Eberhart.

12 MR. EBERHART: I'm good.

13 CHAIRMAN SCALZO: Okay. Ms. Banks.

14 MS. BANKS: No.

15 CHAIRMAN SCALZO: I'd like to open
16 it up to any members of the public that
17 wish to speak about this application.

18 (No response.)

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

22 MR. DONOVAN: You can't do that.
23 You have to wait for the County.

24 CHAIRMAN SCALZO: I almost slid it
25 in there.

2 Unfortunately the public hearing
3 needs to remain open. We will see you
4 next month. The County can time out
5 depending on when the application was
6 submitted. By this time next month they
7 will have timed out. Most of the time we
8 have seen that they end up calling it
9 what's a local determination which means
10 they leave it up to us. We still have to
11 follow the process.

12 MR. POWLIS: Do we need to update
13 like the date on that notice?

14 CHAIRMAN SCALZO: No. The public
15 hearing is going to remain open. You
16 don't have to do anything else.

17 MS. JABLESNIK: Keep it posted. If
18 it blows away, let me know and I'll give
19 you another one.

20 MR. DONOVAN: Come back next month.

21 MR. POWLIS: Thank you.

22

23 (Time noted: 7:40 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of October 2026.

Michelle Conero

MICHELLE CONERO

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

WALMART, INC.

1201 Route 300, Newburgh
Section 95; Block 1; Lot 39.21
IB Zone

----- X

Date: September 24, 2026
Time: 7:40 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: JUSTIN DATES

----- X

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

2 CHAIRMAN SCALZO: Our next
3 applicant is Walmart, Inc., 1201
4 Route 300. This is a Planning Board
5 referral for an area variance of the
6 number of parking spaces required for
7 the expansion of the existing Walmart
8 Supercenter.

9 Siobhan, do we have mailings on
10 this?

11 MS. JABLESNIK: This applicant
12 mailed 24 letters.

13 CHAIRMAN SCALZO: 24 letters.

14 You had mentioned earlier that none
15 of your GML-239s came back.

16 MS. JABLESNIK: Sadly, no.

17 CHAIRMAN SCALZO: So Mr. Dates, --

18 MR. DONOVAN: You get to come back
19 next month.

20 CHAIRMAN SCALZO: -- just as I
21 offered to the last applicant, we're
22 going to let you go ahead and present.
23 This one is kind of unusual because
24 you're also probably doing a parallel
25 application in front of the Town of

2 New Windsor. Correct?

3 MR. DATES: Yes.

4 CHAIRMAN SCALZO: I understand all
5 that. If you could explain all of that
6 to the Board, that would be great.

7 MR. DATES: Sure. Justin Dates,
8 Colliers Engineering & Design on behalf
9 of the applicant, Walmart, Inc.

10 So as Mr. Scalzo mentioned, the
11 Planning Board referred us to this Board
12 for a parking variance.

13 Basically the Walmart Supercenter
14 on Route 300 is looking to do an addition
15 to their facility on the southern end.
16 It's a 6,150 square foot addition for
17 online pickup and delivery. They call it
18 OPD. It is solely for that purpose.
19 It's not new customer retail space.
20 There will be a cooler in there, there
21 will be more shelving so they can store
22 these online orders and hold them until
23 they are picked up.

24 The popularity of this has reached
25 global levels with everybody wanting to

2 pull into a parking space, they let them
3 know when they're there, a customer
4 service representative brings it out to
5 the car and you're on your way home. So
6 that's what the addition is for.

7 Obviously that changes the overall
8 square footage of the entire building.
9 So the existing building is 208,711
10 square feet. When you add this 6,158 to
11 it, we're up to 214,869 square feet for
12 the Supercenter.

13 That would require 1,074 parking
14 spaces based on the Town Code. The Town
15 Code is 1 per 200, and that's for retail
16 stores in excess of 25,000 square feet of
17 gross leasable floor area. So 1,074 is
18 our required amount of spaces. After the
19 construction of this, there will be some
20 removal of some spaces, some shifting
21 around of some islands and things of that
22 nature, we end up with a total of 877
23 parking spaces. That's a deficiency of
24 197 spaces from the requirement that the
25 Town has established for a retail

2 facility.

3 CHAIRMAN SCALZO: I apologize. How
4 many are there currently?

5 MR. DATES: Currently there's 912.

6 CHAIRMAN SCALZO: And you're going
7 to?

8 MR. DATES: 877.

9 CHAIRMAN SCALZO: Okay.

10 MR. DATES: That's essentially 4.1
11 per 1,000 square feet. Walmart, as a
12 company, they look to have 4 per 1,000
13 square feet.

14 In the vast number of shops they
15 have around the country, you know,
16 they're looking for that 4 per 1,000.
17 That would be -- for this facility it
18 would be 860 spaces and we're at 877
19 spaces.

20 If everyone has frequented Route
21 300, you drive past this facility, you
22 know that the spaces --

23 CHAIRMAN SCALZO: Out towards the
24 road are always empty.

25 MR. DATES: -- out towards the road

2 are never really utilized.

3 CHAIRMAN SCALZO: Unless it's the
4 day after the Thanksgiving.

5 MR. DATES: I was going to say
6 Black Friday or things of that nature,
7 special sales, you'll see those spaces
8 utilized. Or for Fourth of July, the
9 fireworks tent is out in that area.
10 They're set up to service during those
11 peak times.

12 You know, that's part of the reason
13 why we feel the variance is appropriate
14 for this facility and the parking is
15 actually available for it.

16 Also, the site is significantly
17 built out. You can see some other
18 features in the rear. There's really no
19 capacity for this site to fit another 200
20 parking spaces. It would create other
21 impacts that would not be necessary.

22 CHAIRMAN SCALZO: I'm assuming that
23 the impervious surface that you're
24 removing, the parking spaces, is going to
25 be replaced by the actual addition to the

2 building?

3 MR. DATES: Yes. Th impervious is
4 essentially a one-to-one swap basically.
5 There is a small planting island there
6 that will be removed, but overall the
7 disturbance is about .53 acres. We don't
8 need a SWPPP. Everything else really is
9 in line from a bulk standpoint, or will
10 be approved by the Planning Board from
11 that standpoint.

12 CHAIRMAN SCALZO: Again, we cannot
13 act on your application this evening
14 until we hear back from the County.

15 This would be an Unlisted action
16 under SEQRA?

17 MR. DONOVAN: This is an Unlisted
18 action.

19 CHAIRMAN SCALZO: Counsel, how do
20 we -- do we act as an individual Board
21 here or do we --

22 MR. DATES: I'm sorry, Mr. Chairman.
23 I totally forgot about that component of
24 the project. Do you want me to speak
25 on that?

2 CHAIRMAN SCALZO: Please.

3 MR. DATES: So the municipal
4 boundary between the Town of New Windsor
5 and the Town of Newburgh goes through the
6 project site, and actually the building.
7 This heavy dashed line is Newburgh on the
8 north. New Windsor is on the south.

9 We're before the Planning Board for
10 an amended site plan. In the past both
11 municipalities have been involved in
12 those approvals. Historically the Town
13 of Newburgh has been lead agency from
14 the Planning Board's standpoint. The
15 improvements in this particular amendment
16 to the site plan, or the facility really,
17 all falls within the Town of New Windsor.

18 We have made an application to the
19 Planning Board in the Town of New Windsor.
20 We have not made that initial presentation
21 yet. In correspondence we received from
22 Dominic Cordisco, the Planning Board
23 Attorney, he also represents the Town of
24 New Windsor Planning Board. At this time
25 it's believed that the Town of New Windsor

2 Planning Board will be lead agency to
3 navigate the SEQRA process. Obviously,
4 like I said, we made application. We
5 haven't made that presentation yet.
6 That's still forthcoming.

7 A predominant amount of parking
8 is in the Town of Newburgh. The Town
9 of Newburgh Planning Board provided
10 us this referral.

11 MR. DONOVAN: If I can, Mr. Chairman.
12 I think there are two things going on here.

13 Is the reduction in the parking
14 in New Windsor as well as Newburgh?

15 MR. DATES: So the Town of New Windsor
16 Planning Board has the jurisdiction of the
17 ability to waive deficiencies in parking
18 requirements. We don't need a variance
19 from the Town of New Windsor.

20 MR. DONOVAN: So Dominic's letter
21 relative to the bulk requirement, the
22 parking we're talking about, he says the
23 project was previously approved as a
24 unified site plan requiring compliance
25 with the Town of Newburgh bulk

2 requirements.

3 I just want to be clear and clear
4 for the Board, you don't need to go to
5 the New Windsor ZBA?

6 MR. DATES: Correct. Correct.
7 That's our understanding based on the
8 initial conversations.

9 MR. DONOVAN: It's just interesting,
10 Justin, I don't know how we bind New Windsor,
11 but, you know, Dominic does represent both
12 Boards. If there is some unified site plan.
13 or some agreement between the municipalities,
14 are you aware of that, that says that they'll
15 have to comply with the bulk requirements
16 of Newburgh? It's just a bit of an oddity
17 to have this bisected by both municipalities.

18 MR. DATES: My understanding was
19 because of the -- historically the Town of
20 Newburgh has been lead agency for SEQRA.

21 MR. DONOVAN: SEQRA becomes a
22 different issue. I'm trying to get clear
23 in my mind how the ZBA in Newburgh issues
24 a variance that's binding on property in
25 New Windsor.

2 CHAIRMAN SCALZO: Just so I
3 understand, the loss of parking spaces
4 isn't even occurring in the Town of
5 Newburgh, is it?

6 MR. DATES: No.

7 CHAIRMAN SCALZO: In essence,
8 everything in Newburgh stays the same?

9 MR. DATES: Correct.

10 MR. EBERHART: Are we saying it
11 should be the ZBA in New Windsor that
12 would be --

13 MR. DONOVAN: I'm not saying that.
14 I'm just saying I want clarification.
15 Maybe you have time to get that
16 clarification.

17 MR. DATES: So specifically which
18 clarification would you like?

19 MR. DONOVAN: The clarification is
20 does the Town of Newburgh ZBA have
21 jurisdiction to grant a variance for
22 parking for property in the Town of
23 New Windsor. Typically we couldn't
24 do that unless there's some sort of
25 agreement between the two Boards,

2 which Dominic seems to indicate that
3 there has been. That's like the last
4 sentence in his second paragraph.

5 Now, I think, Mr. Chairman, your
6 question was on SEQRA, how do we act
7 if there are other agencies involved.

8 CHAIRMAN SCALZO: That's where I
9 was going, yeah.

10 MR. DONOVAN: So again, Dominic's
11 letter indicates that neither the Town of
12 Newburgh Planning Board nor the Town of
13 New Windsor Planning Board have declared
14 their intent to be lead agency. We could
15 act and approve this on what's called an
16 uncoordinated review basis which we
17 typically do when the Newburgh Planning
18 Board has announced they are not doing a
19 coordinated review. So they haven't done
20 that yet.

21 I'm comfortable that we can act
22 under SEQRA and issue a negative
23 declaration when we get there. I just
24 want to make sure that you don't end
25 up, you like the New Windsor ZBA, --

2 MR. DATES: It's not like this
3 Board --

4 MR. DONOVAN: -- that we have the
5 jurisdiction to do what we're being
6 asked to do.

7 MR. DATES: I hear where you're
8 coming from. I'll get in touch with
9 Dominic on this unified site plan and see
10 if there's any material or phrases or
11 binding information.

12 MR. DONOVAN: Dominic obviously has
13 my contact information.

14 MR. DATES: Sure. Okay.

15 MR. DONOVAN: I get random text
16 messages all the time.

17 CHAIRMAN SCALZO: I understand why
18 you're here. If nothing is changing in
19 the Town of Newburgh section, I don't
20 know why we're talking about this.

21 That being said, the public hearing
22 needs to remain open because we don't
23 have County referral. I guess we'll see
24 you next month.

25 MR. DATES: You did officially open

2 the public hearing?

3 MR. DONOVAN: Did you ask anybody
4 -- I think you were going to and I
5 interrupted you and threw you off.

6 CHAIRMAN SCALZO: Are there any
7 members of the public here to speak about
8 this application?

9 (No response.)

10 CHAIRMAN SCALZO: Did that statement
11 right there open the public hearing?

12 MR. DONOVAN: It did.

13 CHAIRMAN SCALZO: Thank you.

14 So Mr. Dates, we'll see you next
15 month.

16 MR. DATES: Great. Thank you,
17 everybody.

18 MS. REIN: Darrin, I have a
19 question for you. Does the unified site
20 bulk plan mean that they have two that
21 are the same?

22 CHAIRMAN SCALZO: That's a question
23 for Counsel.

24 MR. DONOVAN: No. We don't have
25 the authority to grant site plan. It is

2 not uncommon where you have a project
3 that spans municipal borders that there
4 is an agreement of some sort. So if
5 there is an agreement that says Newburgh
6 ZBA bulk regulations apply, then we would
7 have authority to grant the variances. I
8 don't know if that exists or not.

9 MS. REIN: He will bring that with
10 him next meeting?

11 MR. DONOVAN: He would communicate
12 with me or, yeah, the Planning Board
13 Attorney would communicate with me. That
14 should be nailed down.

15 MS. REIN: Thank you.

16
17 (Time noted: 7:55 p.m.)

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Walmart, Inc.

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 October 2026.

Michelle Conero

MICHELLE CONERO

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

WOODHOLLOW CONTRACTING CORP
100 ROUTE 17K, LLC

100 Route 17K, Newburgh
Section 95; Block 1; Lot 49.2
IB Zone

----- X

Date: September 24, 2026
Time: 7:55 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: KEN ZWEIT

----- X

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

2 CHAIRMAN SCALZO: Moving on to
3 Woodhollow Contracting Corp for 100
4 Route 17K, LLC. This is also a
5 Planning Board referral. They're
6 applying for an area variance of pre-
7 existing nonconformities of the lot
8 area and the rear yard and front yard
9 setback where 60 feet is required to
10 add EV charging stations at an
11 existing gas station.

12 Are there mailings on this,
13 Siobhan?

14 MS. JABLESNIK: I guess they're the
15 winner. This applicant sent 9 letters.

16 CHAIRMAN SCALZO: Winner for low.
17 Very good.

18 MR. ZWEIT: Good evening, everyone.
19 Ken Zweit.

20 CHAIRMAN SCALZO: The project
21 narrative is pretty comprehensive, which
22 is fantastic. I don't know if I've ever
23 seen anyone fit this many words in an
24 application before, which was also
25 fantastic.

2 What you've heard us say earlier is
3 that GML 239 has not been received.
4 General Municipal Law 239 allows the
5 County to weigh in with their opinion on
6 the application. We can't act until they
7 let us know -- either they time out or
8 they come back with a comment for us.

9 We're going to let you present and
10 next month the County will have timed
11 out. Next month -- whether they respond
12 or not, we can act next month on your
13 application. We can't this month.

14 So I'm going to go ahead and let
15 you talk about it. The Board is going to
16 ask you any questions it may have, I'm
17 going to open it up to any members of the
18 public and we're going to go from there.

19 MR. ZWEIT: We're going to install
20 -- at 100 17K we're going to install two
21 EV chargers within the gas station.

22 We're trying to keep everything as
23 much simple, not touching anything about
24 parking lots. We're keeping the same
25 spots.

2 The only thing that we're adding to
3 this property is modifying a little bit
4 of the curb of the parking lot to make it
5 more accessible because we are also
6 creating an EV ADA parking spot there.

7 Pretty much the whole project we're
8 installing small electrical equipment,
9 everything into the setbacks that are
10 required for the project.

11 We got also some questions for the
12 DOT. Everything was answered as well.

13 If anyone has more questions, I'll
14 be happy to answer.

15 CHAIRMAN SCALZO: As the application
16 stated from the very beginning, this is
17 a preexisting nonconforming condition.

18 The pictures really help. When
19 you look at the pictures on the
20 presentation, really the only difference
21 anybody would see from the ground up,
22 I'll say, is the actual EV charging
23 stations themselves. You're not expanding
24 the parking lot. You're not expanding
25 the building. The front yard setback

2 is what the front yard setback has
3 always been.

4 I don't have any comments.

5 I'm going to start down with
6 Ms. Rein. Do you have any comments,
7 Ms. Rein?

8 MS. REIN: No. No.

9 CHAIRMAN SCALZO: Keep in mind
10 we'll have the opportunity next month to
11 ask. If you want to just think about it,
12 you can certainly come up with something
13 between now and then. We'll have the
14 opportunity to get through those then,
15 too.

16 MS. REIN: You know I will.

17 CHAIRMAN SCALZO: I'm kind of
18 surprised you haven't jumped in on SEQRA.

19 Mr. Masten.

20 MR. MASTEN: Not at this time.

21 CHAIRMAN SCALZO: How about you,
22 Mr. Politi.

23 MR. POLITI: No.

24 CHAIRMAN SCALZO: Mr. Eberhart.

25 MR. EBERHART: No questions.

2 CHAIRMAN SCALZO: Ms. Banks.

3 MS. BANKS: No.

4 CHAIRMAN SCALZO: Is there anyone
5 here from the public that wishes to speak
6 about this application?

7 (No response.)

8 CHAIRMAN SCALZO: Sir, we will see
9 you next month.

10 MR. ZWEIT: Thank you so much.

11 MR. DONOVAN: There should be a
12 motion to continue the public hearing.

13 CHAIRMAN SCALZO: I didn't do that
14 for the last one, Counsel. You didn't
15 catch me.

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

18 MR. EBERHART: I'll make a motion
19 to keep the public hearing open.

20 MS. BANKS: I'll second.

21 CHAIRMAN SCALZO: I have a motion
22 from Mr. Eberhart and Ms. Banks seconded.
23 All in favor.

24 MS. BANKS: Aye.

25 MR. EBERHART: Aye.

1 Woodhollow Contracting Corp.

79

2 CHAIRMAN SCALZO: Aye.

3 MR. POLITI: Aye.

4 MR. MASTEN: Aye.

5 MS. REIN: Aye.

6 MR. ZWEIT: We need a letter from

7 who?

8 CHAIRMAN SCALZO: Orange County.

9 MR. DONOVAN: GML-239.

10 MR. ZWEIT: Thank you so much.

11

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of October 2026.

Michelle Conero

MICHELLE CONERO

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

NICK & JENNIFER DiLEMME
DiLEMME & SONS, INC.

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

----- X

Date: September 24, 2026
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: TAYLOR PALMER
NICK DiLEMME

----- X

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

2 CHAIRMAN SCALZO: Now we're going
3 on to old business held open from the
4 July 2026 meeting, Nick and Jennifer
5 DiLemme/DiLemme & Sons, Inc., 2201
6 Route 300. Nick DiLemme, Jennifer
7 DiLemme and DiLemme & Sons, Inc. to
8 the Zoning Board of Appeals; one,
9 appealing from a determination of the
10 Code Compliance Supervisor and
11 seeking a determination from the
12 Board that DiLemme & Sons, Inc.'s use
13 of certain existing improvements at
14 the project location may be continued
15 as a legal nonconforming use; and,
16 two, for area variances from Sections
17 185-13E and 185-48.6C of the Town
18 Code to permit DiLemme & Sons, Inc.'s
19 use of said improvements; and, in the
20 alternative, three, for a use variance
21 to permit DiLemme & Sons, Inc.'s
22 commercial use of certain existing
23 improvements at the project location.

24 Now, this is a continuation for
25 -- I don't even remember when we

2 started this. Anyway, here we are.

3 We have received additional
4 information via the applicant. We're
5 going to let you talk about it

6 MR. PALMER: Good evening,
7 Mr. Chairman, Members of the Board.
8 For the record, my name is Taylor
9 Palmer with the law firm Cuddy &
10 Fedder. I am joined by the applicant,
11 Nick DiLemme, who has acquired some
12 new hardware since we saw you. I
13 hope there's nothing AI related in
14 that thing.

15 Fun fact. Actually, Mr. Dates
16 and I, my first appearance as a land
17 use attorney back when it was Drake,
18 Loeb, Heller, Kennedy, Gogerty, Gaba
19 & Rodd, good thing they shortened it
20 to Drake Loeb, was before this Board
21 back when Betty was the ZBA secretary.
22 My first applicant. We were next door
23 to Mr. Stradar. Anywho, fun being
24 before you again.

25 Tonight we are here for the

2 appeal, as the Chairman just mentioned.
3 We did previously provide a detailed
4 background about the application, so
5 I'm not going to go through the full
6 specifics.

7 Just to reorient the Board, the
8 property is improved with a single-family
9 residence as well as the primary driveway
10 access to Route 300. In the backyard
11 there's a detached garage/workshop
12 and a gravel parking area.

13 I have a couple of visuals. All
14 of this, by the way, is in your package.
15 These are Exhibits A through C that
16 we're talking about.

17 Following our last meeting with
18 you all, the Board had asked us to
19 work with our surveyor and our site
20 plan engineer, so to speak, to develop
21 a site plan that showed the conditions
22 that were permitted, so to speak, in
23 1980 as well as the existing conditions,
24 and then collectively what we're
25 proposing, seeking relief to continue

2 operating on the site. So I call
3 those the reduced conditions. It's
4 not what's there presently, but a
5 reduced condition.

6 Detailed in our September 10th
7 submission we did include visuals.
8 What I have up before you is the
9 proposed conditions. To sort of
10 orient everyone on the plans that are
11 in the package, turning first to the
12 1980s conditions plan, what we
13 depicted there is the DiLemme family
14 and their company had stored a
15 legally, so legally stored, a total
16 of eight vehicles on the property
17 together with two pieces of farm
18 equipment. So the 1980 code -- we
19 tried to put a table as well in the
20 submission. I know it's a lot of
21 information to try and organize. I
22 hope tonight we can try and visualize
23 it and then maybe put it into a plan
24 and put it into action per the table
25 to follow this discussion. So the

2 1980 code. They also acquired five
3 property spaces for the company's use
4 of the basement as a home occupation
5 and permitted the DiLemme family to
6 store one camping trailer or boat on
7 the property.

8 So one more step back. We did --
9 thanks to the Chairman and the support
10 of the Town, we did get copies of the
11 older zoning codes which is what
12 helped us digest or present this
13 information to you all.

14 So Section 30.41 of the code that
15 was in place at the time of these
16 operations allowed the DiLemme family
17 and the company to store their 1987
18 Ford Model 1910 tractor and a 1987
19 two-axle utility tractor as farm
20 equipment. Those are permissions
21 that were permitted on the site at
22 that time.

23 Section 30.52 also allowed
24 outdoor storage of materials, for
25 example rebar or lumber, which were

2 kept along the interior of the fence
3 line at the rear of the property, so
4 those hatched areas in your set.
5 This is Exhibit A that I'm going
6 through, just for your reference.

7 In the 1980 plan it also
8 depicted the DiLemme family's four
9 personal vehicles. And then in the
10 1980s, the five parking spaces that
11 were acquired for the company's use
12 of the approximately 600 square foot
13 basement office as a home occupation.

14 The 1980 code also allowed for the
15 storage of one camping trailer or
16 boat.

17 That was the sort of history of
18 the 1980 permissions through the code
19 that was in place when the operation
20 was run. So the existing conditions
21 were the nonconforming or permitted
22 plan as it were.

23 The existing conditions plan
24 the Board asked for just to show what
25 is there today. So the surveyor went

2 out, laid out the conditions and
3 showed what was on the site, and then
4 we laid it out on the plan. So we're
5 showing that.

6 As the Board may recall, the
7 company's larger vehicles, like the
8 boom truck and enclosed utility
9 trailers, are typically moved off the
10 job site to places and they're not
11 typically stored on the property
12 simultaneously. Our existing conditions
13 plan, however, incorporates that. We're
14 trying to show everything that could
15 physically be there at one time.

16 So with that being said, in that
17 scenario, that would be a maximum of
18 twelve vehicles, three of which are
19 garaged, two pieces of farm equipment
20 and then seven utility trailers that
21 are stored on the property. If you
22 want, I can certainly point to any of
23 those on the plans. We tried to sort
24 of mark them out with a key as well
25 to relate back to the sections of the

2 code and what they are and how many
3 there are of each.

4 The existing conditions plan.
5 We have the capacity of the rear
6 gravel parking area to provide
7 daytime parking for the personal
8 vehicles of the company's offsite
9 employees while those employees are
10 on job sites and not at the property.
11 So from Monday to Friday that portion
12 of the gravel parking area is typically
13 used for up to six offsite employees
14 and is not currently striped or used
15 for personal vehicles.

16 MS. REIN: Excuse me, Taylor.

17 MR. PALMER: Yes.

18 MS. REIN: If these parking -- the
19 parking for the offsite employees, how do
20 they get to the job? They're going to
21 take one of the trucks that are there?

22 MR. PALMER: Yes. I can have Nick
23 speak to specifics as far as how many go
24 in each vehicle or if they take
25 individual vehicles. They come to the

2 site and then they take one of the
3 vehicles.

4 MS. REIN: And how many parking
5 spaces were you asking for for that?

6 MR. PALMER: We're asking for -- it
7 says striped for ten personal vehicles.

8 MS. REIN: Okay. So you have ten
9 there and then you have five for the
10 office?

11 MR. PALMER: So under the current
12 conditions or -- so this is what's
13 existing. I'll get to the proposed.
14 Right now I'm just telling you what's
15 there. The visual you have before you --
16 I'm sorry. That's probably what's
17 confusing. We're showing you, telling
18 you what's there now versus what we're
19 proposing. We're proposing to reduce the
20 existing conditions. It's a blend of
21 what was permitted in the 1980s when the
22 operation was initiated and what current
23 code allows, but then there's some excess
24 that we're seeking relief from your Board
25 in the form of an area variance. I'll

2 get to that plan in just a minute. Good
3 question.

4 We highlighted the area of the
5 property that was used for the offsite
6 vehicle employee parking in the beginning
7 of the '90s because that was before the
8 Town adopted another section of the code,
9 185-48.6, which prohibits nonresident
10 employees reporting to the property. So
11 there was a change in the code that sort
12 of reflected the evolution of what was
13 there. That's, again, an existing
14 condition on the site.

15 Importantly, while you'll see that
16 in the proposed conditions the company's
17 three largest vehicles, they're stored
18 outside, the 2005 GMC box truck, the 2006
19 Mack and the International flatbed, they
20 are being currently relocated. So those
21 three big trucks are there but are going
22 to be permanently relocated.

23 As you all know, the applicant is
24 currently in the process of pursuing an
25 application for another location for what

2 would be sort of the headquarters of this
3 anyway. That's also in the Town of
4 Newburgh. So they're actively pursuing
5 that based on feedback they had from the
6 DEC. That's still underway as well.

7 The company's light tower trailer
8 will also be permanently relocated. I'll
9 sort of recap some of this in the
10 proposed conditions.

11 Just for reference of the Board,
12 some of those existing conditions,
13 regardless of the plans in the
14 application, will be relocated offsite.

15 So for the Board's consideration,
16 the current code doesn't expressly
17 prohibit it, the storage of utility
18 trailers. That was something that was
19 unique to this application, or at least
20 that we're highlighting. While it's an
21 existing condition, there is no explicit
22 prohibition or limit on those criteria.

23 Ultimately what now I'll get into
24 is, we're looking to store up to five
25 enclosed utility trailers on the

2 property. In the alternative, where
3 two are permitted, that would be a
4 consideration. That will lay out
5 what you see before you or what would
6 be your Exhibit C in the application.

7 Lastly but not least, the
8 proposed or reduced conditions depicts
9 all of the company's vehicles, the
10 pickup trucks, the farm equipment,
11 tele-handlers, flatbed trailers, all
12 the things that the applicant is
13 seeking to store both in the three-
14 garage bays and then outdoors. The
15 plan that you have on the screen --
16 not the screen but the board, thanks
17 to Justin Dates since I left mine at
18 home, is those that we're looking to
19 do, and I'll walk through that now,
20 in addition to the items that are
21 being removed from the property.

22 So as requested by the Board, we
23 did include a proposed vehicles and
24 equipment list that identifies the
25 vehicles and the equipment that we're

2 proposing to utilize here, and we
3 included specific details on that
4 plan. So rather than sort of
5 reiterate each of those, I know we've
6 given you a lot of information, and I
7 think the intention here was to show
8 a plan that we can try and hopefully
9 get feedback on.

10 The last thing I want to sort of
11 incorporate with this proposed
12 conditions plan isn't just some lines
13 on a plan. We have also included,
14 based on discussions with the Board,
15 based on feedback from the public,
16 general considerations. We did
17 include some notes on the plan that
18 would be enforceable by the Board.

19 There was a question at the last
20 meeting about what would be appropriate
21 conditions if this were approved in
22 any capacity. So we did include, I
23 think importantly, no outdoor cutting
24 of rebar. That was one of the self-
25 imposed conditions we're considering.

2 We're replacing the existing company
3 vehicle back-up alarms with self-
4 adjusting, white noise back-up
5 alarms. So, again, a neighborhood
6 consideration. We'll extend the
7 perimeter of the fence and plant
8 certain trees and vegetation along
9 the side of the property lines to
10 help screen that gravel parking area
11 beyond the existing fencing that's
12 there. We've included a self-imposed
13 prohibition on the storage of a
14 camping trailer or a recreational
15 vehicle trailer or a boat trailer on
16 the property. We did include some
17 other conversations about when the
18 employees came to the site and when
19 they left and how many. We put
20 specific hours of operation, 6 a.m.
21 to 6 p.m. Monday through Friday and
22 7 a.m. to 12 p.m. on Saturday. Of
23 course if there are emergencies --
24 they are contractors, so to the
25 extent there is a work emergency,

2 that would be a very limited instance
3 of outside of those hours.

4 That is what we're presenting
5 for you. We're hoping -- you know,
6 it took a lot to get these materials
7 together for you. It's a lot of
8 information. We're trying to help
9 you sort of reflect back to what was
10 permitted, what the code has evolved
11 to allow, and then what the applicant
12 is seeking to do going forward while
13 also trying address and mitigate any
14 potential impacts to neighbors,
15 notwithstanding they've been there
16 for decades.

17 MS. REIN: None of this has gone
18 into effect yet? I mean, you're still
19 cutting the rebar and the trucks are
20 still --

21 MR. PALMER: If I may. The rebar
22 is very limited. Where there were
23 instances of that, the applicant has
24 heard comments from the public, that is
25 not a regular occurrence at the site.

2 Those are very -- that's like me going
3 out to cut wood in my backyard because
4 I've got to get it ready for the winter,
5 right. A resident can do that. Not
6 necessarily rebar, but I think those are
7 limited operations. I think the
8 neighbors highlighted specific instances
9 of that, but we are self-imposing that.
10 I can't speak specifically for the
11 applicant, whether that's taken place
12 since.

13 Should the Board proceed with any
14 type of approval of this application,
15 whatever iteration it may be, that will
16 be one of the self-imposed conditions,
17 although Chairman Scalzo could go cut
18 rebar at his property tomorrow, if that's
19 a hobby of yours.

20 CHAIRMAN SCALZO: Again, this is --
21 you gave us what we asked for, the code
22 conditions.

23 As I look at the 1980 code
24 conditions, and just -- I just can't wrap
25 my head around, is the employee parking

2 -- I see potentially five vehicle parking
3 stalls there, but then reading the 1980
4 code, you know, you talk about gainful
5 occupation, customarily, blah, blah,
6 blah. Said activity shall have not more
7 than one nonresident employee working on
8 the premises at any one time, shall not
9 occupy more than one half of the ground
10 floor area, blah, blah, blah. So if you
11 had one nonresident employee working, why
12 would you need five stalls?

13 MR. PALMER: I think we're just
14 highlighting that that was a code related
15 to the use so that you could have -- so
16 what we were trying to highlight is what
17 they were doing.

18 Do you want to speak to who was
19 there? It was your aunt and your mother?

20 MR. DiLEMMME: Correct.

21 CHAIRMAN SCALZO: I'm only
22 interested in the nonresidents because
23 that's what the code says.

24 MR. PALMER: I understand. We're
25 relaying back what was the permitted or

2 required conditions. So if you have
3 those operations, it was indicating that
4 you would have five spaces, I guess
5 theoretically for whatever your home
6 occupation would have --

7 CHAIRMAN SCALZO: For an art
8 studio, dressmaker, office for a
9 clergyman, lawyer, physician, dentist,
10 architect, engineer, real estate agent,
11 accountant, the teaching of music,
12 dancing or other instruction limited to
13 one people at a time. That's what it
14 says.

15 MR. PALMER: And five spaces are
16 what were coincident with that use.

17 MR. DONOVAN: Let me just clarify
18 that. So the five spaces are devoted to
19 the home occupation or is it -- I thought
20 there were three spaces devoted to the
21 home occupation and the rest were for the
22 residents of the house.

23 CHAIRMAN SCALZO: The residents of
24 the house are up on the asphalt up in
25 front.

2 MR. DONOVAN: I just had a note
3 that you were looking for -- the area
4 variance request was for two additional
5 personal vehicles. Maybe I have that
6 incorrect.

7 MR. PALMER: Part of this was
8 trying to show a combination of things,
9 so what was permitted and what they had.
10 What has been identified is here. So we
11 have -- I'll take the mic.

12 CHAIRMAN SCALZO: Please do.

13 MR. PALMER: I could have the
14 Terminator, Mr. DiLemme, speak to other
15 pieces.

16 Up in this area of the plan we're
17 showing the DiLemme family vehicles. We
18 have family vehicles that are parked in
19 the, I guess you call it the front
20 parking area.

21 CHAIRMAN SCALZO: Because the
22 office was in the basement of that
23 dwelling.

24 MR. PALMER: Just because that's
25 how many vehicles I guess were utilized

2 that were personal family vehicles.

3 MR. DONOVAN: Those are not devoted
4 to the home occupation.

5 MR. PALMER: Exactly. I'll call it
6 that, personal vehicles or non-home
7 occupation.

8 So what we showed here was eight
9 more spaces related to the code. In
10 fact, when the home occupation was
11 permitted in this, I guess the building,
12 the five spaces were for nonresident
13 office -- required basement office
14 parking spaces. We understand that from
15 reading the code in 1984.

16 MS. BANKS: Can I just ask? I got
17 lost here. Is that what was permitted or
18 what was actually used?

19 MR. PALMER: It's a combination of
20 the two.

21 Nick, you're going to have to speak
22 to the very specific instances of what
23 was used or not.

24 Or we can try and get that to you.

25 As far as the way we're trying to

2 relay this to you, this is what was
3 either permitted and/or incorporated on
4 the site.

5 Do you want to speak to how many
6 nonresident parking spaces were used?

7 This is the 1980 code provision.
8 Somewhere thereafter 1980.

9 I'll try and get you a better
10 answer. This is what -- as they
11 operated, how ever many vehicles they had
12 at any one time, that's what's shown on
13 this plan.

14 MS. BANKS: So five family vehicles?

15 MR. PALMER: Four family vehicles
16 and then four required off-street parking
17 spaces that related to the home office
18 component.

19 CHAIRMAN SCALZO: As a Board we're
20 having difficulty, I'll say with the
21 clarity of the application as to exactly
22 what relief the Board is being asked to
23 grant.

24 MR. PALMER: So what we tried --
25 that's fair. I had enough time to --

2 there was another table we did prepare to
3 try to assess that, but I promise you it
4 actually made it more confusing and
5 complicated. I think rather than -- what
6 I propose, I think what we're trying to
7 show -- that is the latest conditions
8 plan. I think what we're trying to show,
9 based on all the discussion that we've
10 had, is what we're proposing to do. So
11 if we can operate in that sphere, we can
12 highlight at least what we're trying to
13 do, what's permitted, and then what would
14 require relief from this Board. I think
15 that's probably the most -- if I may, the
16 only way that I can try and sort of
17 reduce the brain damage for all of us
18 into what it's trying to solve.

19 This is what the applicant is
20 looking to do on site, and then we laid
21 out the table in our submission, the code
22 sections that apply to it, and what
23 relief we believe would be necessary.

24 CHAIRMAN SCALZO: So we have our
25 own -- well, we put, I say we, put

2 together just some not more than talking
3 points. We consider we're being asked to
4 determine that the use was permitted when
5 it began in or about 1981. Is that --

6 MR. DONOVAN: So here's the way I
7 kind of analyze it. Tell me if we're
8 going in the same direction here.

9 In the first instance the Board
10 would need to determine that the home
11 occupation that existed in 1984 was
12 legal.

13 MR. PALMER: Right.

14 MR. DONOVAN: Right? And so in a
15 perfect world, the 1980 plan that's in
16 Exhibit A shows what was there in 1984?

17 MR. PALMER: Yup.

18 CHAIRMAN SCALZO: Not really,
19 because he's saying what would have been
20 allowed in 1984. So it's kind of a
21 migrated plan of what code would allow
22 but they may not have used. He's showing
23 five or six parking stalls, but maybe
24 they only had two cars for employees.

25 MR. DONOVAN: I was trying to get

2 to a place where the Board gets to
3 determine --

4 MR. PALMER: You're not wrong.

5 MR. DONOVAN: -- what was there in
6 1984 and was that a legal home occupation
7 at that time, and then you would go
8 forward -- if you determine favorably,
9 then you would go forward and say here
10 are the requested area variances, you
11 would go through the five-part balancing
12 tests for those requested variances, and,
13 if you were inclined to grant them, you
14 would impose reasonable conditions, some
15 of which are being proposed by the
16 applicant -- all of which. It's up to
17 you to decide. That's kind of the way --
18 I'm like a one, two, three kind of
19 person. I think it's easier for the
20 Board.

21 But we come back to 1984, and I
22 guess Mr. Chairman is saying what was
23 there and what was allowed may be two
24 different things.

25 MR. PALMER: I'm going to have to

2 say I can't answer those questions right
3 now. To that extent, I'm going to have
4 to clarify the specifics because we laid
5 it out based on the feedback from the
6 applicant I think in both concepts. I
7 don't want to make a misrepresentation
8 that X was there in this location. I
9 think we were trying to help -- the
10 visual was twofold. It was to help you
11 not only understand what they had
12 operating, to Counsel's point of what is
13 existing nonconforming, and what they
14 could also have had in supporting the
15 request for relief that we're also
16 looking for beyond what may be permitted
17 in today's code.

18 I can't answer those questions
19 today, but I think we're like rounding
20 third to home as far as how to get there.

21 If I may. For this application I
22 don't think there was any ambiguity, and
23 I don't believe the code enforcement
24 officer said that the use by itself was
25 not nonconforming or not permitted. The

2 use was legal as a home occupation
3 nonconforming, but the expansion thereof
4 was what triggered our appearance before
5 you all because it was a growth or an
6 expansion of that nonconformity.

7 MS. REIN: You know what I'm
8 thinking. What if we go to the table he
9 has here with proposed vehicles and
10 equipment and go through each one and
11 decide what is okay and what isn't.
12 Wouldn't that help us?

13 CHAIRMAN SCALZO: I don't disagree
14 with you, but I think that's a little
15 further down the conversation than we
16 need to be at right now. I understand
17 where you're headed.

18 Just as a matter of my own review
19 of the 1980 code, the earlier code,
20 everything else that came with it, I
21 don't know how this application was
22 granted in the first place in the '80s.
23 I can't find anything that would have
24 allowed all the language in the code.
25 How did they --

2 MR. PALMER: That's why you see --
3 I think what is most persuasive that's
4 before you as a quasi judicial board
5 is that the evolution of your Town's
6 code and your zoning code has either
7 explicitly modified a lot of this,
8 right, to change how many nonresident
9 employees. Like, there are very
10 explicit changes. How many vehicles
11 that are not over a certain length.
12 These things were added to the code
13 because either there was an instance
14 of someone that was beyond the -- in
15 a residential zone and they wanted to
16 curtail or minimize or limit what a
17 new -- the next person in Town could
18 really do. You may have the existing
19 nonconformities, like Mr. DiLemme,
20 but you may have new folks coming in
21 wanting to do that. Sorry, go find a
22 different area in Town to do that,
23 the code has evolved.

24 CHAIRMAN SCALZO: Everything I've
25 read about what was allowed in even the

2 earlier codes, everything was really an
3 interior type activity. Clearly that's
4 not what this is, unless we had the
5 garage that had two vehicles stored in
6 it.

7 MR. PALMER: Let me be clear. The
8 home occupation is not the -- so the home
9 occupation was within the home. The
10 office that was utilized by Mr. DiLemme's
11 mother and his aunt was in the home. The
12 vehicles and other things on the property
13 could be stored there just by other
14 components.

15 There's no limit to the number of
16 accessory uses one can have on a site.
17 You can have a garage and a shed. You
18 can have a garage and a pool. So you can
19 have a trailer and you can have farm
20 equipment. Your code permitted these
21 things, whether or not they were home
22 occupation use. So that's why what
23 you're seeing in the 1980 plan is very
24 difficult to sort of convey, because it's
25 not necessarily saying that was

2 specifically the home occupation or that
3 was -- what we're identifying is that
4 your code allowed the DiLemmes to use it,
5 and when they had these vehicles, whether
6 it fit as the tractor or it fit as the
7 farm equipment, those were all permitted
8 things in your code. The home occupation
9 was a nonconformity, and certain
10 components of that were, but there are
11 other sections of your code, vehicles and
12 things that were stored on the site that
13 were also permitted in your code that
14 didn't necessarily have to tie directly
15 into the home occupation. That's, I
16 think, the nuance, Mr. Chairman, that
17 we're going around. It's not all to say,
18 to your point, cutting rebar or whatever
19 it might be. You and I can do that
20 tomorrow at our houses. I'm not doing
21 it. I'm keeping my hands. For our
22 purposes, those are things you could do
23 just as a homeowner. Also you could do
24 those as a business. The home occupation
25 wasn't sitting outside cutting rebar. It

2 was directing the vehicles or running
3 this business from the house. There are
4 other components that are accessory,
5 permitted vehicles or uses that were also
6 on the property. Some of it, again, was
7 in furtherance of that home occupation,
8 and the code was effectively silent on a
9 lot of how one could do that on the site.
10 We're making the position, taking the
11 code read most favorable to the
12 applicant, which is the standard, to
13 present to the Board, A, here's what you
14 could have had, here's what they had,
15 here's what they were using them for, so
16 based on those criteria we're asking for
17 these things, and then there are certain
18 things that go beyond what even would
19 have been permitted then that the
20 applicant, through these mitigation
21 measures, is hoping this Board will grant
22 the relief through the five factors just
23 as an area variance.

24 MS. REIN: This started out as a
25 home office?

2 M R . P A L M E R : C o r r e c t .

3 M S . R E I N : C o r r e c t ?

4 M R . P A L M E R : Y e s .

5 M S . R E I N : I t ' s g r o w n e x p o n e n t i a l l y .
6 T h e b u s i n e s s i t s e l f h a s g r o w n e x p o n e n t i a l l y .

7 M R . P A L M E R : T h a t ' s f a i r .

8 M S . R E I N : S o e v e r y t h i n g e x t r a o n
9 t h a t p r o p e r t y s h o u l d n ' t b e t h e r e b e c a u s e
10 t h i s w a s o r i g i n a l l y z o n e d a n d o k a y e d f o r
11 a s a n o f f i c e , a h o m e o f f i c e .

12 M R . P A L M E R : I f I m a y c l a r i f y . I ' m
13 h a v i n g a s i m i l a r d i s c u s s i o n w i t h t h e
14 C h a i r m a n .

15 S o j u s t t h e h o m e o f f i c e c o m p o n e n t ,
16 t h a t m a y b e s o w h e r e , w h e n y o u h a v e
17 w h a t ' s c a l l e d a n e x i s t i n g n o n c o n f o r m i t y
18 -- l e t ' s j u s t c a l l i t f i v e v e h i c l e s . I ' m
19 j u s t m a k i n g i t e a s y f o r T a y l o r m a t h . S o
20 t h e r e a r e f i v e v e h i c l e s o n t h e s i t e t h a t
21 w e r e a l l t h e r e , t h e y e x i s t e d u n d e r c o d e ,
22 b u t f i v e y e a r s l a t e r t h e y c h a n g e d t h e
23 c o d e t o s a y y o u c a n h a v e o n e v e h i c l e .
24 O k a y . T h o s e o t h e r f o u r v e h i c l e s a r e n o w
25 n o n c o n f o r m i t i e s b e c a u s e t h e c o d e w a s

2 changed after you had the permitted use.

3 Here that's essentially the same
4 evolution that we're working on. Some of
5 those things that were permitted, whether
6 it was a tractor, whether it was a
7 trailer, the code permitted those and
8 they had those. Whether they were used
9 for the business or not, the code didn't
10 speak to that. Because it didn't speak
11 to that, years later the Town would
12 revise the zoning to be much more explicit
13 about what was it was regulating. By
14 doing so, it made the things they had,
15 whether it was for the home office or
16 just because they had it, because it
17 wasn't explicit in the code, those
18 became nonconforming. It didn't
19 necessarily need to relate back to the
20 home occupation, it just had to be
21 something they had and it was later
22 changed that made it nonconforming.

23 MS. REIN: You also have something
24 here that says legally nonconforming.
25 It's like jumbo shrimp.

2 MR. PALMER: I like jumbo shrimp.

3 MS. REIN: I like jumbo shrimp,
4 too.

5 MR. PALMER: The zoning codes are
6 always read, if there's any ambiguity,
7 the highest court in New York, the Court
8 of Appeals, says it has to be read in
9 favor of the property owner. The
10 Building Department looked at it in one
11 capacity and said you overgrew your
12 britches. I don't think now -- based on
13 the discussions we've had or the review
14 that we finally had of the code, we're
15 not disagreeing with that aspect of it.
16 All we're trying to do, through this
17 submission now, is explain what the
18 applicant could have as a component of
19 the home occupation and what the
20 applicant could have had or did have at
21 that time that became a nonconformity
22 because of later changes in the code.
23 And then, beyond that, because, to your
24 point, they have new or expanded the home
25 occupation component, the applicant is

2 looking for this Board to grant area
3 variance relief for some things that
4 are in addition to either what are
5 nonconforming or otherwise would be
6 permitted today under the code. So
7 that's why it's -- it kind of jumps
8 around, but that's just because of
9 the way this application has evolved
10 from trying to get access to the code,
11 now having the benefit of it, and
12 then presenting to you the relief
13 that they're seeking now that they
14 know the history and the evolution.

15 MS. BANKS: Can I ask a question?
16 What type of business was it in 1980?

17 MR. DiLEMMME: The same as it is
18 today.

19 MS. BANKS: And what is that?

20 MR. DiLEMMME: We do concrete
21 foundations for homes, businesses.

22 We don't do that at our location.
23 We do that on people's property,
24 commercial job sites.

25 CHAIRMAN SCALZO: Michelle, that's

2 Nick DiLemme.

3 MR. DiLEMMME: This is just the
4 place that we store our trucks, our
5 equipment. It's never been an issue
6 until just a few years ago.

7 You know, as you know, I have a
8 tremendous amount of support from my
9 neighbors, other than two or three of
10 them, who haven't been around that long,
11 that don't know the history of this
12 family, that haven't been part of the
13 community as long as I have. That's why
14 I'm getting the support from them. Yes,
15 my business has grown. Yes, I'm looking
16 to move my business. I preexist all
17 this. I want some relief. I'm a
18 taxpayer. I support other families with
19 running my business. I'm a little upset
20 and tired right now because of all that
21 I'm going through with this, but it's --
22 we're there from the early '80s where we
23 didn't need approval. Things have
24 changed.

25 I'm having a tough time getting my

2 property approved in the Town of Newburgh.
3 I got DEC claiming the property, holding
4 me up for nine months. Now it's not
5 DEC wetlands, it's federal. All the
6 material I need to make the site work
7 is on the wetlands side of it. I
8 keep revising the plan to a smaller
9 and smaller footprint, which is
10 bigger than what I have now, that I'm
11 trying to move forward with. I'm
12 going to need a little time for that.

13 But my business hasn't changed
14 really. It's gotten a little bigger,
15 more equipment. It most certainly
16 hasn't changed before my neighbor
17 over there moved in.

18 MR. PALMER: She's not important.

19 CHAIRMAN SCALZO: Hang on. I
20 understand.

21 MR. DiLEMME: As of recently -- as
22 of recently we have been encouraging a
23 lot of things that we don't need, loading
24 our dumpster, taking loads away, keeping
25 the site clean. I'm a very neat and

2 clean person to start with. We want to
3 do the right thing. I don't know what
4 else to say.

5 You better take this from me. I'm
6 just tired.

7 MR. DONOVAN: If I can just make
8 one point here. The Board decides the
9 applications based on the facts and the
10 law. Whether a hundred people are in
11 favor or opposed doesn't impact what the
12 Board does. It's based on the facts and
13 the law.

14 Sorry you feel upset.

15 I'm sorry you feel upset, okay.

16 Sorry for everyone.

17 The Board can't be impacted by
18 that, right. They have to look at the
19 facts and the law and try to apply the
20 law equally for everyone. That's the
21 only way the Board can act. I understand
22 emotions run high on both sides. I
23 understand that. This is what the Board
24 does. The Board does it very well
25 because not every application in front of

2 this Board is as easy as the ones that
3 came before.

4 MR. PALMER: I think what's
5 important is the applicant has heard the
6 public comments and has incorporated
7 specific conditions in here, and is
8 working to do a lot of things that aren't
9 being requested of it yet. It's self-
10 imposing and trying to come up with a
11 solution. As a business that's been here
12 and operating, it's trying to come up
13 with a solution of what was there and
14 then what it's looking for while reducing
15 those operations and further mitigating
16 any potential impacts to those neighbors
17 in the community.

18 CHAIRMAN SCALZO: It's wonderful
19 that you use the term self-imposing. It
20 has zero benefit to the Code Compliance
21 Department. Let's say today that's what
22 we're going to do and tomorrow I don't
23 feel like it.

24 MR. PALMER: We agree. If I may
25 clarify. We're incorporating it onto the

2 site plan that, if approved by this
3 Board, would be enforceable by the Code
4 Enforcement Department.

5 MS. BANKS: I have more questions
6 if I may.

7 CHAIRMAN SCALZO: Knock yourself
8 out.

9 MS. BANKS: So rebarring is a task
10 that's related to concrete masonry, right?
11 That is actually happening on the site.
12 Correct? So there is work happening on
13 the site?

14 MR. DiLEMMME: May I answer that?

15 MS. BANKS: Please.

16 MR. DiLEMMME: It's a minor -- it's
17 a minor task. It's usually done on the
18 job sites or it's purchased from a
19 supplier already fabricated and bent and
20 brought to job sites.

21 We're using, a lot of times,
22 leftover materials, cutting from it,
23 modifying it and using it. We don't do
24 that day in and day out. That's not what
25 we do. We form and pour concrete

2 foundations in slabs. It's such a minor
3 -- minuscule of what we do. If we do
4 like the videos that she showed you, we
5 might have been out there thirty minutes
6 maybe, carrying the bar out, measuring
7 it, painting it, cutting it. We
8 suspended doing that outside. It's not
9 something that we do day in and day out
10 at our facility. It's mostly done on job
11 sites.

12 MS. BANKS: I understand. I just
13 want to establish --

14 MR. DiLEMMME: To me it's like --
15 I'm sorry to step over you.

16 MS. BANKS: That's fine. I
17 understand you're upset.

18 MR. DiLEMMME: It keeps coming up
19 again and again and again, and I'm kind
20 of like -- the one video should have
21 never happened. I actually told the guys
22 not to cut rebar outside and it did
23 happen. There's other ways of doing
24 that, either on the job site, inside the
25 building, and it doesn't have to be done

2 with a gas-powered saw. So that's
3 suspended. It's not even a conversation
4 we need to have again about doing that.
5 The work is typically done on the job
6 site. It's minor.

7 We store outside materials that we
8 need. We need chairs, we need rebar, we
9 need stretchers, we need, you know,
10 different lumber, form ties. We load
11 what we need on the truck and at the end
12 of the day, if there's excess material,
13 we put it back where it belongs.
14 Sometimes you come back with scrap lumber
15 and put it into a pile or we put it into
16 the dumpster.

17 Just recently, like I said before,
18 we did a big purge of a bunch of lumber
19 and things that we don't need anymore,
20 things that we've been hanging on to
21 because we know eventually we're going to
22 move. We're trying to reduce the
23 footprint and keep things neat and clean.

24 Is there any more questions that
25 you had that I can try to address for

2 you?

3 MS. BANKS: No. I just wanted to
4 understand if the rebarring was happening
5 there. You know that we have gotten a
6 lot of videos. I think I saw the use of
7 a crane and a bunch of stuff there. So
8 there is actually work happening on the
9 site. I was just curious about that.

10 And I guess the other -- I do have
11 other questions, but this may be for
12 Counsel or for the Chairman. So in terms
13 of like allowed versus actual, how can we
14 verify what was happening in 1980 at that
15 site? Now we have with Google Maps and
16 cellphone videos and all that other
17 stuff. How do we verify what was
18 happening?

19 CHAIRMAN SCALZO: It's nearly
20 impossible.

21 MR. PALMER: I think we've offered
22 this before. We can submit an affidavit
23 that's sworn testimony.

24 MR. DONOVAN: You have submitted
25 that.

2 MR. PALMER: I don't know if we
3 submitted -- again, I'm relating back to
4 our initial submissions.

5 MS. BANKS: Maybe receipts or --

6 MR. DONOVAN: Here's the problem.
7 The problem is a special permit wasn't
8 required for a home occupation back in
9 1984. The code provisions that we've
10 gotten explain, and even I asked Joe what
11 do we have. Nothing. So we don't have --

12 MR. PALMER: It didn't require COs
13 back then.

14 MR. DONOVAN: Correct. So what I
15 was hoping we would get, and now I'm
16 thinking that we may not have gotten
17 quite what I was hoping, was the 1984
18 plan would show what was there in 1984.
19 I think you're showing what was there and
20 what could have been there.

21 MR. PALMER: I'm not going to
22 answer that because I don't know exactly
23 what -- I have to make that crystal
24 clear, too, for the benefit of the Board.
25 I just don't have that answer right now.

2 I want to make sure what we submitted to
3 you addresses that. This is what
4 existed, so why it's nonconforming,
5 versus this is what we could have had for
6 supporting what we want. That's why
7 we're trying to utilize that to show --

8 MS. REIN: I just think that -- I
9 mean, I've been to every one of these
10 DiLemme meetings and we're just going
11 around in circles and on and on and on,
12 let's get more of this and let's get more
13 of that. I think, me personally, that we
14 should just focus right now on what they
15 want and decide whether or not we're
16 going to give it to them.

17 MR. PALMER: To your point. We did
18 develop those plans for that purpose. We
19 tried to create, to Mr. Chairman Scalzo's
20 point, a plan that is -- right now, you
21 know, there's nothing controlling it
22 because it wasn't required then. Now,
23 whether it's with this Board, or how ever
24 it is, there will be a plan, it will be
25 the gospel and they'll have to live

2 according to it and the Building
3 Department's words. If there are changes
4 in the future, should the code say now
5 you can't have trailers, well there's a
6 plan that's in place and it's existing
7 nonconforming and that's what the plan
8 is, stamped, sealed, in the Town's files.
9 That's what we're trying to do, is create
10 not only just a verbal record of it but a
11 visual site plan that they hired a
12 surveyor, went out there, laid out a
13 plan, and that can be adopted as just
14 that. So what we're all trying to
15 help --

16 MS. REIN: That's what I figured
17 when I read this five times last week.

18 MR. PALMER: Did we win the number
19 of awards prize?

20 CHAIRMAN SCALZO: Certainly volumes.

21 MS. BANKS: I agree with you, we
22 keep going around the mulberry bush.
23 You're absolutely right.

24 I guess the goal here, we all want
25 to do what's right, do something balanced

2 for the business and the residents.

3 I just have a bunch of, still,
4 outstanding questions.

5 If I remember correctly, correct me
6 if I'm wrong, did the family move out of
7 the house?

8 CHAIRMAN SCALZO: They are not
9 currently residing there.

10 MS. BANKS: You do not live in the
11 house?

12 MS. REIN: They're renting it.

13 MS. BANKS: They're renting it.

14 MS. REIN: It's a residential
15 house. They're renting it out. They
16 don't live there.

17 MS. BANKS: They don't live there.
18 Someone else lives there?

19 MS. REIN: Yes.

20 MS. BANKS: In order to be a home
21 occupancy, it doesn't matter who lives
22 there? Anyone can live there?

23 MR. PALMER: Under the current
24 code.

25 MR. DONOVAN: I believe it says a

2 residence thereof.

3 MS. BANKS: Just a residence.

4 Someone has to live there. Okay.

5 CHAIRMAN SCALZO: The person that
6 rents the home, are they part of the
7 business?

8 MR. DiLEMMME: No.

9 MS. REIN: So you're thinking
10 it's --

11 MS. BANKS: It's a rental that --

12 CHAIRMAN SCALZO: It's a rental
13 that the renter does not participate in
14 the DiLemme concrete business.

15 MS. BANKS: Is it a commercial
16 business or --

17 CHAIRMAN SCALZO: DiLemme concrete
18 is a commercial business.

19 MR. PALMER: We're not trying to
20 change the use at all.

21 CHAIRMAN SCALZO: The construction
22 site in general.

23 MR. PALMER: We're just talking
24 about the physical outdoor space and what
25 could be stored or not and how.

2 CHAIRMAN SCALZO: Employees of a
3 firm marshall in an area. They move
4 materials from storage areas onto
5 equipment. They do this and they do
6 that. The work that they are preparing
7 for, they have marshalled and set up
8 occurs offsite.

9 MR. PALMER: Correct.

10 CHAIRMAN SCALZO: You don't
11 consider the marshalling, the loading,
12 the preparation as part of the
13 construction job?

14 MR. PALMER: I consider the code
15 ambiguous, and it was modified later to
16 be much more specific, and thus has to be
17 read in favor of the property owner. I
18 think for purposes of mitigating --

19 CHAIRMAN SCALZO: When you say
20 ambiguous, I don't see anything in the --
21 they're talking about dressmakers and
22 real estate people, attorneys, engineers.

23 MR. PALMER: It says to name a few.
24 It doesn't say that these are the explicit
25 list or tenants or home occupations that

2 are permitted. That would make a
3 number of businesses throughout this
4 Town not permitted as well.

5 MS. REIN: It sounds like semantics
6 to me.

7 MR. PALMER: That's just the law.
8 That's the highest court. I can defer to
9 Counsel on that. That is absolutely the
10 law.

11 Actually, I think Mr. Donovan, at
12 one of the prior meetings, said just
13 that, that the code is not explicit to
14 the uses or what could be a home
15 occupation.

16 MR. DONOVAN: It is not exclusive.
17 You do have to read the definition. I
18 think I read it from beginning to end at
19 the last meeting. I saw it when I was
20 reading the minutes.

21 MR. PALMER: I don't think the use
22 is the question. It's the components of
23 the use and what they can have on the
24 site. That's the question and that's
25 what drove the complaint from the

2 neighbor, was the utilization of the
3 site and exceeding what was permitted
4 in the 1980s that brought it to what
5 it is today.

6 MS. REIN: So we're not looking to
7 define whether or not it is actually a
8 home occupation?

9 MR. DONOVAN: Well, in my view step
10 number one was to determine whether or
11 not this was a legal home occupation when
12 it commenced in 1984.

13 MS. REIN: And it was?

14 CHAIRMAN SCALZO: We don't know that.

15 MR. DONOVAN: That's an interpretation
16 that the applicant has asked for, right,
17 because that's the threshold issue. If
18 you decide it wasn't a permissible home
19 occupation in 1984, and obviously the
20 counterargument is we've been there for
21 forty years and no one has bothered
22 us, right. If you determine it's not,
23 then we all go home and they start a
24 lawsuit, that's what happens, which
25 wouldn't be the first time or the last

2 I'm sure.

3 In my view, the second thing is,
4 if you decide it's a home occupation,
5 then what was allowed in 1984? I think
6 we have a -- I'm confused as to what
7 was there -- what you're saying was
8 allowed there.

9 I did want to ask Joe, and you
10 don't have to answer right now, there
11 is that provision in the code that limits
12 the number of cars, right? We'd be over
13 that?

14 MR. MATTINA: Personal vehicles,
15 no. You can have as many personal
16 vehicles on your lot as you want.

17 CHAIRMAN SCALZO: I could have a
18 party every day at my house.

19 MR. DONOVAN: For twenty years,
20 Joe, I still can't figure out how many
21 cars you can have. I thought you were
22 limited to four.

23 MR. MATTINA: No. That's storage
24 of vehicles within an accessory building.

25 MR. DONOVAN: So I can only have

2 four in the garage but I can have
3 twenty-seven parked on the grass in the
4 backyard?

5 MR. MATTINA: Yes, you can.
6 Registered.

7 MR. DONOVAN: Tell me how that
8 makes sense.

9 MS. REIN: Are we going to vote on
10 anything today?

11 MR. DONOVAN: That's not my decision
12 to make.

13 MS. REIN: It was a general --

14 CHAIRMAN SCALZO: Again, here we go.
15 I'm having difficulty with the clarity of
16 the application, what exactly the Board
17 is being asked to grant.

18 MS. BANKS: I agree with you.
19 Obviously I don't want this to be delayed.

20 CHAIRMAN SCALZO: They're asking
21 for what the proposed conditions are. I
22 believe that's the relief they're asking
23 for.

24 MR. DONOVAN: Ultimately that's
25 what they're asking for.

2 MR. PALMER: Correct.

3 MR. DONOVAN: I believe you need to
4 go -- that's point C. You need to go
5 from point A to point B to point C. If
6 point A is it was a permitted home
7 occupation in 1984, point B would be what
8 was there. Point C is what area variances
9 are required to give them that relief.
10 And then point D would be imposing
11 reasonable conditions.

12 MR. PALMER: Correct. I agree with
13 all of that.

14 MS. BANKS: You mentioned that
15 there's a plan to relocate the entire
16 business. Correct?

17 MR. PALMER: Well the majority of
18 the business. They're still going to
19 operate DiLemme concrete out of this
20 site. The majority of the -- the bigger
21 vehicles and a lot of the staging and
22 everything will be able to function much
23 more effectively just as -- what do you
24 call it, the radio like you're calling
25 the taxis, you're calling out to that

2 site.

3 MS. BANKS: Like a dispatch.

4 MR. PALMER: Thank you. That's the
5 word.

6 MS. BANKS: So the crane would go
7 away?

8 MR. PALMER: It's already gone.
9 We've already proposed to take it away.
10 That's not even on the proposed
11 conditions. The biggest vehicles are
12 already proposed. That's not included in
13 our proposed conditions.

14 MS. BANKS: So you're just looking
15 to have a space to dispatch work, have
16 people switch their vehicles?

17 MR. PALMER: Employees may have --
18 exactly. Yup. Precisely.

19 The intention would be those
20 materials you talked about would be going
21 to the other site. The stuff, that's
22 getting delivered elsewhere. It's just
23 vehicles and the parking for the
24 employees.

25 MS. BANKS: Is the other site

2 already identified? A signed lease?

3 MR. PALMER: Ironically it was
4 approved by your Planning Board, what,
5 ten years ago, twenty years ago.

6 MR. DiLEMMME: Sixteen.

7 MR. PALMER: Sixteen years ago. It
8 expired because it was the last -- 2007.
9 It was the last crash.

10 MS. BANKS: You don't have the
11 space secured?

12 MR. PALMER: Correct. Not yet.
13 What they're doing is they are working
14 with an engineer and in communication
15 with DEC. It took ninety days to get
16 back to them about their jurisdictional
17 determination. They told them that they
18 no longer -- well, they first said they
19 had jurisdiction, then they lost in court
20 on SEQRA, which is always fun to talk
21 about. They lost there. It's not DEC
22 wetlands, but now, as Mr. DiLemme
23 mentioned, it's federal wetlands. They
24 had to shrink the building and the
25 operation and modify everything. It is

2 going to be a new, reduced scale
3 application before your Planning Board.

4 CHAIRMAN SCALZO: So hang on. The
5 opportunity to have the public speak, I
6 want to bring that up for a couple
7 minutes here. That will give us another
8 chance if we have other questions.
9 Sometimes when we hear from the public,
10 we think of other things.

11 I'd like to actually open this up
12 to any members of the public that wish to
13 speak about this application. I'm going
14 to limit that to the latest information
15 that was provided. We have seen videos.
16 We read it all. Very comprehensive
17 pieces of information. If there are
18 comments that anyone in the public would
19 like to address regarding the last
20 submission, which is actually what we're
21 looking at here, which has been posted
22 online, if anyone has any comments or
23 questions, now is the opportunity.

24 MS. COROLLO: Hello. I'm Danielle
25 Corollo at 414 Strawridge Road in

2 Wallkill, New York.

3 I also got some new hardware in my
4 hip since this whole thing. I feel you
5 on that.

6 But, yeah, I guess I have a
7 question. In the 1980 code we talk about
8 the home occupation versus what's allowed
9 as a resident. Doesn't that bring you to
10 intent, that yes, you can have farm
11 equipment on your property, but that's
12 for your personal use or my personal use,
13 not for commercial use? So then how do
14 you differentiate what's there for which
15 intent, and isn't that the purpose of a
16 home occupation?

17 CHAIRMAN SCALZO: Intent is such an
18 awful word because you can't say what the
19 intent was. I don't know what the intent
20 was when the Board granted whatever they
21 granted ten years ago.

22 MS. COROLLO: Yeah. So I guess my
23 question would be, like, well then why if
24 they were allowed these things -- we
25 know, we have information, documentation

2 that says that this business was started
3 in 1984 at this residence and that this
4 equipment was used for this business and
5 not tied to the home occupation, not the
6 residential use which allowed farm
7 equipment, et cetera.

8 CHAIRMAN SCALZO: The difficult
9 part for me as a Member of this Board is
10 whatever occurred in 1984 was not
11 memorialized, so I don't know, and that
12 is a real problem for me to wrap my head
13 around.

14 MS. COROLLO: That's fair. Me,
15 too.

16 I have said all of the other things
17 at the other meetings. I'll just say
18 that I don't have anything against my
19 neighbor personally. I just -- you know,
20 this is extremely disruptive. You've
21 seen the videos. I do ask that, you
22 know, we can work within the noise
23 ordinance.

24 I know you guys are there at 4 a.m.
25 sometimes, and it's really disruptive.

2 It wakes me up. I get you're trying to
3 run a business, but I'm also trying to
4 have a peaceful neighborhood. I know I
5 wasn't alive in 1980, so I don't have the
6 same length of time here in the
7 community, but, you know, this is very
8 disruptive.

9 The number of employees there, even
10 just the coming and going, the loading of
11 equipment. I understand that they are
12 not doing the work there, but it's
13 foundational to the work that they do.
14 They couldn't do it without all of this
15 other accessory work that they do.

16 MS. REIN: Let me ask you a
17 question. Has the sound reduced any in
18 the past couple of months?

19 MS. COROLLO: I've noticed in the
20 past week that the equipment has reduced,
21 but the sound is there. They're still
22 using their equipment. I see the
23 pressure washing happening, or whatever,
24 to like clean their equipment. I have
25 not seen the cutting of rebar in a few

2 months. I agree with that. Their trucks
3 are extremely loud. Their employees are
4 loud. I see them taunt my neighbors.
5 I've seen them taunting. It is
6 disruptive in many ways, not just cutting
7 rebar.

8 MS. REIN: How are they taunting
9 you?

10 MS. COROLLO: If they see us
11 recording, I've submitted videos of this,
12 they will wave their hands, pretend to
13 record us back, point at us. My
14 neighbor's children will be in the yard,
15 and she has videos of them, like after
16 she's recording, like, you know, pointing
17 at the kids. Different things like that.
18 I don't hear them speak English so I
19 don't know what they're saying, but I
20 visually see it and I hear -- they're
21 quite loud when they speak. My cameras
22 pick it up, my outdoor cameras.

23 MS. REIN: Thank you.

24 CHAIRMAN SCALZO: Is there anyone
25 else from the public that wishes to speak

2 about this application?

3 (No response.)

4 CHAIRMAN SCALZO: Okay. We're
5 being asked to render an interpretation
6 that the uses that are shown in Exhibit A
7 here were legal and in existence in or
8 about 1984. That's how we're starting.

9 MR. DONOVAN: That's how I read the
10 application.

11 MR. PALMER: That's what that is
12 showing.

13 CHAIRMAN SCALZO: Therefore your
14 position is that you're entitled to
15 continue.

16 MR. PALMER: Those -- yes. Those
17 specific pieces of the site plan at that
18 time, yes.

19 And then we're asking -- the
20 proposed conditions do include some
21 additional requests beyond what was
22 permitted in 1980.

23 CHAIRMAN SCALZO: Let me jump back.
24 This is where I think this is going to
25 make us all feel a little better here. I

2 think at this point we need to -- before
3 going any further on the application, we
4 should verify whether or not we think
5 what was happening in 1984 was legally in
6 existence.

7 Counsel, did I capture that correctly?

8 MR. DONOVAN: Yeah. Yeah. I mean,
9 that's step one.

10 MR. EBERHART: That's step one.

11 CHAIRMAN SCALZO: I need your help
12 here, Counsel. How do we -- is this
13 something I throw to a vote?

14 MR. DONOVAN: Ultimately you're
15 going to have to vote.

16 What we're hearing tonight, if I
17 understand, Taylor, not to put words in
18 your mouth, but you're not a hundred
19 percent sure if what's shown on the map
20 in Exhibit A is what was really there in
21 1984?

22 MR. PALMER: The only clarification
23 there is whether those are existing non-
24 conformities versus necessarily what's
25 permitted. Just because it wasn't there

2 doesn't necessarily mean that it couldn't
3 be permitted under current code. So I
4 need to wrap my head around those
5 issues --

6 MR. DONOVAN: If it wasn't there in
7 1984 --

8 MR. PALMER: Right.

9 MR. DONOVAN: -- and now it's
10 prohibited, they couldn't have it.

11 MR. PALMER: Right.

12 MR. DONOVAN: I'm glad we agree on
13 that, but I'm not sure --

14 MR. POLITI: Say that one more
15 time, that statement. If it wasn't --

16 MR. DONOVAN: If it wasn't there in
17 1984 and has since been made that you're
18 not able to have it, it's prohibited,
19 they can't have it.

20 MR. PALMER: We couldn't apply for
21 it today. It would be nonconforming.

22 What I was speaking to Ms. Banks
23 about was trying to go -- now that you've
24 seen the '80, the proposed and the so-
25 called existing, it's just the final plan

2 that speaks directly to this that says
3 from the final plan, we'll bold them in
4 yellow, these are what existed, and then
5 in whatever color you like, purple, it's
6 complementary, this is what's proposed
7 beyond what we're saying existed in 1980,
8 and that will be what you'd be deciding
9 on at the next meeting.

10 MS. REIN: All that information is
11 here. Why do we have to wait until the
12 next meeting? Let's just figure it out.

13 MR. PALMER: We just explained
14 that. The plans that we have that we
15 submitted from 1980, I have to get
16 clarification about what was -- what is
17 shown as being an existing condition,
18 whether it was in furtherance of the
19 home occupation or simply there
20 because it was also permitted at the
21 time, or, as Mr. Donovan is saying,
22 if it wasn't there, either way, whether
23 it was permitted as an accessory use
24 or part of the home occupation, then
25 we wouldn't be entitled to it.

2 MS. REIN: Taylor, haven't you
3 already done that in the permitted,
4 legally nonconforming variance request?
5 Doesn't that sort of --

6 MR. PALMER: We have, but I don't
7 have it in a visual format that will help
8 us get there in --

9 MR. DONOVAN: So let me --

10 MR. PALMER: -- the next two hours.

11 MR. DONOVAN: -- just put this out
12 there for discussion because I'm not
13 convinced. If the Board was so inclined
14 to issue an interpretation that a home
15 occupation was allowed on this site in
16 1984, but we aren't able to determine
17 what the parameters of that were at the
18 time since we don't have a time machine
19 to go back in time, but a home occupation
20 was permitted, and then somehow jump
21 forward -- I would prefer to be able to
22 say exactly what was there. Assuming
23 that we can't, you jump forward and you
24 say now -- and here's where we're having
25 the issue, because I would like to

2 delineate the specific area variances.
3 If you were inclined to grant those area
4 variances subject to these conditions,
5 assuming you agree with that, I think
6 that gets you --

7 MR. PALMER: That's what I'm trying
8 to get to, Ms. Rein. I'm trying to lay
9 it out in the format that Mr. Donovan
10 laid it out in a written document for the
11 record that explains just that so there's
12 no misrepresentations.

13 MS. REIN: The information is here.

14 MR. DONOVAN: The information is
15 not necessarily there in Exhibit A.

16 MR. PALMER: It's in three parts
17 and then a fourth.

18 MR. DONOVAN: What they want is --
19 I'm sorry to interrupt. What they want
20 is in Exhibit C, but Exhibit A doesn't
21 show what was there in 1984. You can't
22 verify that.

23 MR. PALMER: That's all I'm trying
24 to get.

25 CHAIRMAN SCALZO: You know the old

2 adage, I don't remember what I had for
3 breakfast. I don't know how you're going
4 to produce something from forty plus
5 years ago.

6 MR. PALMER: It's going to be
7 reliant on the applicant's affidavit.
8 They're going to have to clarify, and
9 then beyond that --

10 MS. BANKS: Receipts, warranties,
11 that kind of stuff.

12 MR. EBERHART: We don't have that
13 information.

14 MS. BANKS: My mother has her
15 washer receipt from Sears from 1979.

16 MS. REIN: I agree with you a
17 hundred percent.

18 MR. PALMER: You can vote next
19 month. I'm not asking you to do anything
20 other than let us ride it out so that if
21 we don't agree with the conditions, that
22 an Article 78 appeal that we would take
23 doesn't find based on what wasn't fully
24 evaluated. So I'm just trying to get it
25 laid out. As Mr. Donovan just said, it's

2 nonconforming because. If it's
3 nonconforming, this is what was there
4 and permitted in 1980, this is what
5 we're proposing and then these are
6 the conditions, and you all can make
7 those conditions, but we're -- the
8 ones we proffer are going to remain.
9 If you have others, then they'll be
10 there. That will be shown visually.
11 That will be laid out in a very short
12 two-page letter that speaks to those
13 things, and that's -- that will be
14 the script that your counsel and you
15 all can review to try and consider
16 that. To the extent Mr. DiLemme can
17 find more support, and you've all
18 requested that, we'll try to
19 incorporate that as exhibits. I'm
20 not trying to explain it further, I'm
21 just trying to cut and dry to the
22 point of the proposed conditions.

23 MS. REIN: That means another
24 delay. It's business as usual.

25 MR. PALMER: Okay.

2 MS. REIN: No?

3 MS. BANKS: What if we were to
4 suggest to prove what was approved in
5 1980?

6 MR. DONOVAN: Nothing was approved
7 in 1980. It wasn't required. See, if we
8 had an approval like a special use permit
9 is issued now --

10 MS. BANKS: Like what was allowed.

11 MR. DONOVAN: Home occupation
12 included but not limited to.

13 MR. PALMER: That's what's on
14 Exhibit A.

15 MS. REIN: It was too broad. They
16 didn't put anything in there. Home
17 occupation was just home occupation,
18 whatever you wanted to do with it.

19 MR. PALMER: Precisely. It was
20 ambiguous.

21 MS. BANKS: Are there any other
22 businesses in the Town -- this might be
23 kind of broad, but are there any other
24 businesses in the Town where there's
25 established precedence with something

2 similar --

3 MS. PALMER: Yes.

4 MS. BANKS: -- that we can use as a
5 reference?

6 MR. PALMER: The Conklin application.

7 MS. REIN: What did you say?

8 MR. DONOVAN: Except that had a use
9 variance. If you remember Conklin, Ira
10 Conklin, WCC Tank which then became --
11 which we denied because they wanted to
12 expand the fuel tank liner business. We
13 granted -- when Black Rock Excavating
14 came in, we granted that and we had a
15 site plan done which outlined the
16 contours of what was permitted on that
17 property.

18 MR. PALMER: Because they didn't
19 have one.

20 MR. DONOVAN: Because they didn't
21 have one similar to DiLemme's.

22 MR. PALMER: They had a use
23 variance but they didn't have a site
24 plan. We represented the applicant when
25 they were approved. The prior counsel

2 actually did both and had been denied
3 on another use variance. We brought
4 it before your Board with a similar
5 provision saying, again, you want to
6 regulate it and you have a provision
7 in your code I think reducing the
8 nonconformity. So here, you know,
9 it's not particularly on point but
10 it's similar in that a site plan was
11 created to do just that. It gave the
12 Building Department and any future
13 buyer and any future owner very
14 explicit controls, hours of operation,
15 screening.

16 MR. DONOVAN: I could have sworn
17 somewhere in the voluminous materials
18 you provided was an affidavit from
19 Mr. DiLemme that said what was going
20 on. I just cannot put my hands on it.

21 MR. PALMER: I remember us at least
22 offering that, so I wouldn't disagree
23 with you, Mr. Donovan. That's -- if we
24 can't find the dishwasher receipt from
25 Sears, then we will see what else we can

2 compile that will support that. We will
3 otherwise provide the affidavit for the
4 occupation and use that was there. To
5 the extent we can't, we'll say to you we
6 can't say it was and the justification is
7 we're seeking the relief for an area
8 variance based on the fact that you could
9 have. That's when we get into the third
10 factor -- I'm taking Mr. Donovan's
11 script. That's when you get into the
12 third factor of the discussion. That's
13 what we're trying to lay out for you.

14 CHAIRMAN SCALZO: In my mind what
15 would have fit better as a home occupancy
16 is if they were doing their concrete
17 business takeoffs. When I say takeoffs,
18 you have a set of plans and in those
19 plans you have reinforcement details, you
20 have this, you have that. Basically they
21 were doing the math in the house, not the
22 actual marshalling of workers, equipment
23 and everything else. That I can understand.
24 That would more closely fit what the code
25 was back in '84 than what it ended up

2 being. I was a junior in high school.

3 MR. PALMER: We respectfully
4 disagree it was ambiguous. That's why
5 we're here. I understand what you're
6 saying, that now as it's highly
7 regulated, it is much more explicit on
8 what isn't permitted and what wouldn't be
9 allowed on the property.

10 CHAIRMAN SCALZO: You can't have a
11 veterinary office there. Could you be a
12 furrier?

13 MR. PALMER: There are some that
14 say explicitly they'll allow. You have
15 to get a variance if you want something
16 that wasn't.

17 CHAIRMAN SCALZO: This one is not
18 easy.

19 MS. BANKS: Remind me one more
20 time. What exactly are you looking for?
21 Seven cars?

22 MR. PALMER: I'll go to the plan.
23 So there are ten employee vehicles that
24 are shown on the line here. We've got
25 these ten employee vehicles. We show a

2 flatbed trailer. I guess actually we
3 have it all. Sorry. Do you have Exhibit
4 A? There's a key on there for you.

5 MR. DONOVAN: Exhibit C.

6 MR. PALMER: Excuse me. Thank you.
7 Right there.

8 MS. BANKS: This is what you want
9 to have there?

10 MR. PALMER: Yes. What we did
11 there is we put -- you can follow this
12 key, and then each of them are numbered
13 on each spot.

14 For everybody else here, what we
15 did was we took the list of what's being
16 asked to keep on the property and then we
17 numbered those, but then we also put the
18 number in the space or area on the plan
19 as shown.

20 MS. BANKS: A total of how many
21 vehicles?

22 MR. PALMER: It's not necessarily
23 vehicles, but it's --

24 MR. POLITI: I would have said the
25 same question. You have four on top

2 where there weren't four --

3 MR. PALMER: The Code Enforcement
4 Officer said I could have twenty-seven.

5 MR. POLITI: How many?

6 MR. PALMER: Sorry. So we have
7 personal vehicles -- I'll have to get you
8 -- I don't have that. I can try.

9 MS. BANKS: It's like one, two,
10 three, then there are five, so this is
11 eight. Nine, ten, eleven, twelve,
12 thirteen, fourteen, fifteen, sixteen,
13 seventeen, eighteen, nineteen, twenty,
14 twenty-one, twenty-two, twenty-three,
15 plus five parking spots is twenty-eight.
16 Eight additional vehicles. Thirty-six?
17 This can't be right.

18 MR. PALMER: It's parking for that.
19 It's not --

20 MS. BANKS: So you want to have
21 space for thirty-six vehicles on the
22 property?

23 MR. PALMER: If that's the math
24 that you're showing. I don't have --

25 MS. BANKS: You know, I didn't do

2 well in math. It looks like thirty-six
3 vehicles, or space for thirty-six,
4 because there is Nick DiLemme's personal,
5 the company manager, the office manager,
6 five parking spaces for vehicles, a Ford,
7 a Ford, a Ford, a Ford, a tele-handler.
8 That's ten. Someone else, fingers. Ten,
9 eleven.

10 MR. PALMER: I think I add twenty-
11 eight.

12 MS. BANKS: Five parking spaces,
13 vehicles for basement office. It looks
14 like --

15 MR. PALMER: Twenty-eight.

16 MS. BANKS: You got twenty-ight?

17 MR. PALMER: I mean, I just did
18 this really quick.

19 MS. BANKS: It says eight
20 additional parking spaces.

21 MR. PALMER: Twenty-eight.

22 MS. BANKS: Twenty-eight vehicles?

23 MR. PALMER: Trailers, vehicles.

24 It's not just vehicles. It's trailers,
25 it's other -- we've laid it out

2 explicitly what they are. There are
3 some vehicles, some are trailers,
4 some are personal vehicles, some are
5 home occupation, like the employees
6 that are coming to the site.

7 CHAIRMAN SCALZO: What are the
8 hours of operation of the business?

9 MR. PALMER: We put that on --

10 CHAIRMAN SCALZO: Hang on. How
11 about this. It's not going to happen
12 tomorrow. Let's say Tuesday I want to go
13 see the office. Can I do that?

14 MR. PALMER: Yes. According to the
15 owner, yes, you may. We can coordinate
16 that, too, if you'd like.

17 MS. BANKS: I was there today.

18 CHAIRMAN SCALZO: I want to see the
19 office.

20 MR. PALMER: I think we submitted a
21 picture of it.

22 MR. DiLEMMME: You're welcome to come.

23 MR. PALMER: Again, I think to your
24 point, that goes to Mr. Donovan's section
25 4 or D of the outline which is reasonable

2 conditions. So if the Board didn't see
3 fit in that number and for reasons that
4 are related to the application or, you
5 know, just the general five-factor
6 balancing, they could be curtailed.
7 Where they're not permitted, we're
8 seeking relief for a variance. That's
9 what we're trying to lay out for you in
10 this submission.

11 We did a lot to try and take the
12 history and put it in visual. We're not
13 taking this lightly. I think we're all
14 committed to trying to address this all
15 so this is done in, what are we in,
16 October. October. Halloween-ish.

17 MS. BANKS: My memory escapes me.
18 How many vehicles were allowed in 1980 or
19 '84?

20 MR. PALMER: Sixteen.

21 MS. BANKS: Sixteen vehicles.

22 MR. PALMER: Approximately sixteen
23 on that super quick count.

24 MR. DONOVAN: We're saying they're
25 allowed or not prohibited?

2 MR. PALMER: That's what we're
3 getting clarification on.

4 MS. REIN: What specifically,
5 because my head is now, you know --

6 MR. PALMER: Do you want me to flip
7 the plan again?

8 CHAIRMAN SCALZO: If we keep this
9 open, that's the one thing --

10 MR. PALMER: You can also close the
11 hearing. The information we're providing
12 is just clarifications on what we've
13 already submitted.

14 MR. DONOVAN: Correct. I think if
15 we can get back, if this is possible, in
16 1984 we believe, right, because no one
17 has a perfect memory, we believe the
18 following was on the site and is
19 permitted to continue as a preexisting
20 nonconforming home occupation, --

21 MR. PALMER: Yes.

22 MR. DONOVAN: -- and then we need
23 area variances for the following, and
24 then we propose the following conditions,
25 right. That's the way I would like the

2 Board to proceed. Then it's clear.
3 Right now I've got the feeling that I
4 don't know what the hell I'm doing. I
5 assume you guys have the feeling that you
6 may not know what the hell you're doing
7 either. I'm embellishing, obviously.

8 MR. PALMER: Imagine if you asked
9 us to change a light bulb.

10 CHAIRMAN SCALZO: I don't think
11 we're any closer.

12 MR. PALMER: This is going to be --
13 I said a site submission explains it,
14 shows it, proposes what it is. We can
15 get the dishwasher receipt. That's what
16 we're going to incorporate and that way
17 you have before you all the materials to
18 make a decision on what you all agree or
19 disagree or believe was there in 1980,
20 and then what we're asking for relief
21 from that goes beyond either what is
22 nonconforming or otherwise permitted
23 today and the relief that's necessary as
24 as a consequence, and then you're
25 deciding two things.

2 MR. POLITI: So there are two
3 parts. One, what was the original. The
4 second is the proposal.

5 MR. PALMER: Right.

6 MR. DONOVAN: It would be a
7 determination yes or no whether it was a
8 permitted home occupation.

9 MR. POLITI: That's the key.

10 MR. DONOVAN: Two is what's the --
11 I'll call it the expansion, but what they
12 need.

13 MR. POLITI: What they're requesting.

14 MR. DONOVAN: And three I'll just
15 say is what the reasonable conditions are.

16 MR. POLITI: Right.

17 MR. DONOVAN: Some have been suggested.
18 You may have others. You can impose --
19 we go through this with everybody. You
20 can impose a reasonable condition that
21 has what the lawyers like to call a nexus
22 to some legitimate end, right. You can't
23 just impose a condition because it's
24 Tuesday. There has to be a legitimate
25 reason for the condition, and the

2 condition needs to be related to
3 accomplishing that.

4 MS. BANKS: Last question. I know
5 it's getting late. Considering that
6 they're planning to move this business --
7 right, you're moving the business?

8 MR. PALMER: Right. Probably the
9 heaviest components of it.

10 MS. BANKS: What does that mean?

11 CHAIRMAN SCALZO: Let's go. Let's
12 hear it.

13 MS. BANKS: Could we consider a
14 temporary approval, a temporary modified
15 approval of some sort?

16 MS. REIN: No.

17 CHAIRMAN SCALZO: I think variances
18 run with the land. My fear is when we're
19 all pushing up daisies, that this business
20 continues, and that's not -- I think
21 that's where you're going. You're saying
22 a temporary because you want it to stop
23 at a certain time. If we move forward
24 with this, subsequent owners and
25 subsequent owners and subsequent owners

2 can still do it.

3 MR. PALMER: To be clear, that's
4 not necessarily true. The existing
5 nonconforming business or the use is a
6 concrete business. It doesn't necessarily
7 apply forever more. So it is specific.
8 That's not a fair characterization.
9 It wouldn't just be anything.

10 MS. REIN: Counsel, Mr. Donovan --
11 you're Taylor.

12 MR. PALMER: Taylor.

13 MS. REIN: He's Counsel.

14 MR. PALMER: Correct. I've been
15 called worse.

16 MS. REIN: Counsel, I have a
17 question for you. What you were talking
18 about, I'm still saying it's right here
19 because he wrote proposed vehicle and
20 equipment, then there's another column,
21 permitted, legally nonconforming or
22 variance requested, and then he has the
23 current code. Aren't we going to be
24 redundant? Isn't this what we need
25 exactly right here?

2 MR. DONOVAN: Well, I think what's
3 been said tonight, when you look at the
4 map proposed as Exhibit A is that
5 Mr. Palmer can't certify to us that
6 that's what was there in 1984. We're
7 being asked, I believe in the first
8 instance, to say what was there in
9 1984 is allowed to continue, it was a
10 home occupation and permitted.

11 Am I right?

12 MR. PALMER: The question has
13 been streamlined to what we didn't
14 provide. That's what we need to
15 provide you with, is a modification
16 or a clarification for the record of
17 what was there versus explicitly what
18 was permitted to be there. That's
19 what we're -- that's going sort of
20 fact A and B to Mr. Donovan's breakdown.
21 We're trying to consolidate it into
22 that. What we gave you helped us get
23 to that point, and now it's to get
24 you to be able to make a decision
25 following a very --

2 MS. REIN: Even if you gave that
3 to us, we're not going to really know
4 how accurate it is.

5 MR. DONOVAN: It's going to be the
6 only thing we have.

7 MR. PALMER: And the applicant --
8 again, the Board, and I'll speak to
9 Counsel, I'll defer to Counsel in
10 speaking to what the standard is. When
11 it comes to ambiguous, that is always in
12 favor of the property owner.

13 MR. DONOVAN: Taylor, in your June
14 submission, because Siobhan is the master
15 of everything, she has come across
16 Mr. DiLemme's affidavit. There is an
17 affidavit which was close but not
18 definitive, I would say.

19 Thank you, Siobhan.

20 MR. PALMER: Thank you. That will
21 help when I have to go back.

22 MS. REIN: Will it be in the form
23 of a sworn affidavit?

24 MR. PALMER: I'm envisioning what
25 it's going to be. It will be a plan that

2 will be a proposed conditions that will
3 lay out color of things that were
4 permitted or that we -- that were there
5 on the operation and explain those, and
6 then what we're proposing in another
7 color, and then it will, to the extent we
8 can provide any more support for why and
9 how we say it was there at that time, we
10 would incorporate that as well.

11 MR. DONOVAN: If Mr. DiLemme can
12 provide an affidavit, to the best of my
13 recollection in 1984 this is the picture
14 of the property.

15 MR. PALMER: That's going to be the
16 alternative. We're going to go deeper
17 into the cabinets. Maybe Mr. Scalzo
18 wants to dig with us and help us find the
19 '84 --

20 CHAIRMAN SCALZO: I'm trying to get
21 rid of papers and shred them.

22 MR. DONOVAN: My right arm is going
23 to be longer than my left arm.

24 MR. PALMER: I feel Mr. DiLemme's
25 elbow here.

2 Would the Board consider closing
3 the public hearing?

4 MR. DONOVAN: The public hearing
5 has been closed.

6 MR. PALMER: It has?

7 MR. DONOVAN: Didn't we vote on
8 that?

9 CHAIRMAN SCALZO: We did not.

10 MR. DONOVAN: I thought we did.
11 Okay.

12 CHAIRMAN SCALZO: We don't have to
13 close the public hearing. We can leave
14 it open.

15 MS. BANKS: I'll make a motion to
16 leave it open.

17 MS. REIN: I think we should leave
18 it open. The issue is open.

19 MR. MASTEN: Yes, it is. Leave it
20 open.

21 CHAIRMAN SCALZO: How about that.
22 This is awesome.

23 I'll look to the Board for a motion
24 to close the public hearing. Here you
25 go.

2 MR. EBERHART: I'll make a motion
3 to close the public hearing.

4 CHAIRMAN SCALZO: We have a motion
5 from Mr. Eberhart. Do we have a second?

6 (No response.)

7 CHAIRMAN SCALZO: There you have
8 it. We do not. The public hearing
9 remains open.

10 MR. DONOVAN: So are you going to
11 continue to the next meeting and are we
12 clear what we want from Mr. Palmer, --

13 MR. PALMER: Taylor.

14 MR. DONOVAN: -- otherwise we're
15 going to be doing this in October? You
16 promised to slit your wrist if we were
17 doing this in September. I read that
18 today, too.

19 MS. REIN: Yes, you did.

20 CHAIRMAN SCALZO: What we need is,
21 as clearly as it can be, --

22 MR. PALMER: Yup.

23 CHAIRMAN SCALZO: -- a defined
24 affidavit of what existed in 1984 and
25 what you're proposing to -- I don't know

2 if you're going to make modifications
3 to what you're proposing here, but I
4 assume you will because I've got a
5 feeling that anything more than what
6 was there in 1984 probably is not
7 going to fly. That's just one guy
8 out of seven talking. Pardon me.
9 Six.

10 I should have made the
11 announcement early. We are down a
12 member. Greg Hermance has resigned
13 and relocated. We'll get to that
14 later.

15 So that's what I suppose we're
16 looking for. We don't need to make a
17 motion on that.

18 MR. DONOVAN: So everybody is clear
19 what they want, does anyone have an idea
20 of conditions that they want to suggest?
21 If you have any. You don't have to. I
22 don't want to --

23 CHAIRMAN SCALZO: I want a list of
24 activities that you think you're going to
25 do. That's what I want. Including

2 marshalling of your employees. Any
3 activities. Are you going to be
4 transferring materials from one vehicle
5 to another? I'm sure you are. I want to
6 know this, you know.

7 MR. PALMER: I understand what you
8 want.

9 CHAIRMAN SCALZO: You work in a
10 very, I don't want to say --

11 MR. PALMER: Amorphous.

12 CHAIRMAN SCALZO: The industry
13 itself. You're in concrete. You're
14 going to have rebarring, you're going to
15 have forms, you're going to have this,
16 you're going to have that. Are you going
17 to have paperclips? Probably in the
18 office. But, you know, I don't know.
19 Are you going to have a tire changing
20 station outside? No. I want to know
21 what you do, that way we can limit you to
22 what you do.

23 MS. REIN: So we should wait on the
24 conditions to see what's proposed?

25 MR. PALMER: We've offered some.

2 That's fair.

3 MS. REIN: You don't want to give
4 conditions when you don't know what
5 they're actually --

6 MR. DONOVAN: All I was thinking is
7 if something was on somebody's mind, to
8 bring that out tonight rather than
9 October so we come back at Thanksgiving.

10 MR. PALMER: We can use binder
11 clips instead of paperclips.

12 MR. DONOVAN: Do you still want to
13 get into the office?

14 CHAIRMAN SCALZO: You know, I will
15 certainly -- if that's the case, I will
16 give you long enough notice. I just want
17 to just waltz around the property and
18 look at things.

19 MR. PALMER: Okay.

20 MS. REIN: Are there still twelve
21 trailers there? Last time I was there,
22 that's what I counted.

23 MS. BANKS: There was still a lot
24 of equipment when I was there today. A
25 lot.

2 M R . P A L M E R : I d o n ' t k n o w t h e
3 n u m b e r .

4 M R . D i L E M M E : T h a t ' s w h a t i t t a k e s
5 t o r u n a b u s i n e s s .

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

7 M R . D i L E M M E : W h a t a m I s u p p o s e d t o
8 d o ? T h e r e ' s n o w h e r e t o j u s t g o l i k e m o v e
9 i t .

10 M S . B A N K S : I t h o u g h t y o u s a i d y o u
11 h a d a s i t e w h e r e y o u w e r e m o v i n g
12 e q u i p m e n t .

13 M R . P A L M E R : W e d o n ' t w a n t t o g e t
14 i n t o t h a t . J u s t t o b e s u p e r c l e a r f o r
15 t h e B o a r d , w e d i d a s k -- i t w a s n ' t o u r
16 c o d e e n f o r c e m e n t o f f i c e r j o i n i n g u s t h i s
17 e v e n i n g , b u t w h e n t h e i n i t i a l v i o l a t i o n ,
18 o r w h a t e v e r y o u w a n t t o c a l l i t ,
19 d e t e r m i n a t i o n , w a s r e c e i v e d , w e a s k e d i f
20 w e c o u l d t e m p o r a r i l y m o v e t h e m a t e r i a l s
21 t o t h a t s i t e w h i l e w e p r o c e s s t h e s i t e
22 p l a n . B y n o t t h i s c o u n s e l b u t o t h e r T o w n
23 c o u n s e l , w e w e r e g i v e n a n o t h a n k s , g o d o
24 t h i s . S o w e a s k e d a y e a r a g o .

25 C H A I R M A N S C A L Z O : I f y o u c a n p a r k

2 employees' cars on the current lot, why
3 can't you park them somewhere else?

4 MR. PALMER: Because there's not an
5 approved site plan for that site. The
6 site, when it was approved, is expired
7 and the building isn't built. They
8 couldn't move it to that location which
9 they otherwise own in the Town.

10 CHAIRMAN SCALZO: Even parking of
11 vehicles is something that requires a
12 site plan?

13 MR. PALMER: Yup. We tried to do a
14 temporary trailer. We tried anything we
15 could to get it as a use.

16 MR. MATTINA: It's vacant property.

17 MS. BANKS: That site plan expired?

18 MR. PALMER: In 2007.

19 MS. BANKS: They still own the
20 property?

21 MR. PALMER: Yes.

22 Do we need to formally adjourn or
23 continue?

24 MR. DONOVAN: You should make a
25 motion to continue the hearing until the

2 October meeting, if that's what you're
3 going to do.

4 CHAIRMAN SCALZO: I'll look to the
5 Board for a motion to continue the public
6 hearing to the October meeting.

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

8 MS. BANKS: I'll second it.

9 CHAIRMAN SCALZO: We have a motion
10 from, was it Mr. Politi?

11 MR. POLITI: Yes.

12 CHAIRMAN SCALZO: And a second down
13 there from Ms. Banks. All in favor.

14 MS. BANKS: Aye.

15 CHAIRMAN SCALZO: Aye.

16 MR. POLITI: Aye.

17 MR. MASTEN: Aye.

18 MS. REIN: Aye.

19 CHAIRMAN SCALZO: Those opposed?

20 MR. EBERHART: Nay.

21 MR. PALMER: Thank you.

22 CHAIRMAN SCALZO: With his cane
23 saying you shall not pass.

24 All right, folks. The last order
25 of business is meeting minutes from July.

2 I'll make a motion to approve the meeting
3 minutes from July.

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

6 CHAIRMAN SCALZO: I'll second. All
7 in favor.

8 MS. BANKS: Aye.

9 MR. EBERHART: Aye.

10 CHAIRMAN SCALZO: Aye.

11 MR. POLITI: Aye.

12 MR. MASTEN: Aye.

13 MS. REIN: Aye.

14 CHAIRMAN SCALZO: Motion to
15 adjourn.

16 MR. POLITI: I'll make a motion to
17 adjourn.

18 CHAIRMAN SCALZO: I'll second. All
19 in favor.

20 MS. BANKS: Aye.

21 MR. EBERHART: Aye.

22 CHAIRMAN SCALZO: Aye.

23 MR. POLITI: Aye.

24 MR. MASTEN: Aye.

25 MS. REIN: Aye.

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(Time noted: 9:20 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 10th day of August 2026.

Michelle Conero

MICHELLE CONERO