

In The Matter Of:
Town of Mamakating
Zoning Board of Appeals

Meeting Minutes
2-28-19
February 28, 2019

Jeric Corporation
Court Reporting Services
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Narrowsburg, NY 12764
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ZONING BOARD OF APPEALS

MINUTES

February 28, 2019

TOWN HALL

WURTSBORO, NEW YORK

ZONING BOARD MEMBERS :

MATTHEW MORDAS, Chairman

GEORGIA RAMPE, Board Member

KENT FINDLEY, Board Member

JON FOURNIER, Alternate Board Member

STEVEN MOGEL, ESQ., Attorney

KYRA PLATT, Building Department

JERIC CORPORATION
Court Reporting Services
P.O. Box 385
Narrowsburg, New York 12764
(845) 252-3515

Reported by: Rosemary A. Meyer

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

----- X

Jason Degroat
Area Variance
Tax Map Section 59.A; Block 1; Lot 19
Neighborhood Residential Zone

----- X

Town Hall
Town of Mamakating
February 28, 2019
7:05 P.M.

ZONING BOARD MEMBERS :

- MATTHEW MORDAS, Chairman
- GEORGIA RAMPE, Board Member
- KENT FINDLEY, Board Member
- JON FOURNIER, Alternate Board Member
- STEVEN MOGEL, ESQ., Attorney
- KYRA PLATT, Building Department

Also Present: Jason Degroat, Applicant

JERIC CORPORATION
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P.O. Box 385
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(845) 252-3515

Reported by: Rosemary A. Meyer

1 - RE: JASON DEGROAT -

2 CHAIRMAN MORDAS: Good evening, ladies and gentleman.
3 Welcome to the Town of Mamakating Zoning Board of Appeals
4 meeting for February 28, 2019. I'm the chairman of the
5 Board, Matthew Mordas.

6 I start off the meeting with a role call.

7 Georgia.

8 BOARD MEMBER RAMPE: Here.

9 CHAIRMAN MORDAS: Kent Findley, not here yet.
10 Hopefully, he will arrive.

11 Matthew Morreale has notified me he will be out sick
12 tonight and so will Cathy Dawkins. I guess there's some
13 kind of flu going around, stomach viruses.

14 Because of being short-handed, I'm going to appoint
15 our new alternate, Mr. Jon Fournier, as a voting member.
16 He's going to have his baptism by fire tonight.

17 I'm going to alter the agenda in case Kent comes in a
18 little late. I still have hopes he will arrive. I'm going
19 to go in reverse tonight.

20 Also, before I go any further, our attorney tonight,
21 as usual, Steve Mogel.

22 First on the agenda is going to be Mr. Jason Degroat.
23 Please come up to the podium and give our stenographer,
24 Rosemary, your name and address and tell us what you're
25 trying to do here.

1 - RE: JASON DEGROAT -

2 MR. J. DEGROAT: Hi. I'm Jason Degroat, 413 Yankee
3 Lake Road, Wurtsboro, New York.

4 So what I'm looking to do is build a detached garage
5 on my property. According to one of the zoning setbacks, I
6 believe the street wall setback, I'm on a corner lot, it's
7 not allowing me to build the garage on the side of my
8 house.

9 CHAIRMAN MORDAS: Okay. All right. So you're in
10 front of us for a variance in regards to an accessory
11 structure closer to the street than the street wall of the
12 house.

13 How big is your primary structure, square footage
14 wise?

15 MR. J. DEGROAT: 2100 square feet.

16 CHAIRMAN MORDAS: All right. It's a sizable house.

17 And the garage you're proposing, how big is that going
18 to be?

19 MR. J. DEGROAT: I believe it's -- I think it's, like,
20 700 square feet.

21 BOARD MEMBER RAMPE: It says 650 here.

22 MR. J. DEGROAT: 650, yes.

23 CHAIRMAN MORDAS: All right. And what are the
24 dimensions?

25 MR. J. DEGROAT: So basically, it's 37 feet wide by 26

1 - RE: JASON DEGROAT -

2 feet deep with one bay being 28 feet deep.

3 BOARD MEMBER RAMPE: Could you repeat that?

4 MR. J. DEGROAT: So overall, the entire thing is 37
5 feet wide and then there's two bays that are going to be 26
6 feet deep and third bay that will be two feet deeper.
7 It'll be 28 feet deep.

8 CHAIRMAN MORDAS: All right. So you're going to have
9 like a bump out on the rear wall?

10 MR. J. DEGROAT: On the front wall.

11 CHAIRMAN MORDAS: Front wall.

12 MR. J. DEGROAT: That would be going out toward the
13 field.

14 CHAIRMAN MORDAS: And what kind of roof are you going
15 to have? You're not going to have like a Dutch style
16 gambrel roof?

17 MR. J. DEGROAT: No. It's going to basically match my
18 house. It would just be an asphalt shingled roof, a
19 regular A frame roof, whatever, turn gable on the deeper
20 bay. The bay that's 28 feet deep, that will have a return
21 gable back.

22 CHAIRMAN MORDAS: All right. And what is the height?
23 The height is going to be?

24 MR. J. DEGROAT: Twenty feet.

25 CHAIRMAN MORDAS: Twenty high. All right.

1 - RE: JASON DEGROAT -

2 MR. J. DEGROAT: My wife told me it had to be smaller
3 than the house.

4 CHAIRMAN MORDAS: Well, if it's over 1500 square feet
5 you're going to need a site plan and you'd have to go in
6 front of the Planning Board. We're going to scrutinize
7 that second story. It's a sizable garage being proposed
8 here. I know my fellow board members who are absent well
9 enough by this time that, that second story is going to be
10 scrutinized.

11 All right. What are your plans for the second story?

12 MR. J. DEGROAT: Nothing really. Just storage. It's
13 not going to be finished.

14 CHAIRMAN MORDAS: Okay.

15 You're probably going to put electricity in there?

16 MR. J. DEGROAT: Yeah, just electric. No plumbing or
17 anything like that. It's just a place for me to work on my
18 hobbies.

19 BOARD MEMBER RAMPE: Let me ask you about your pool
20 here on your property. Is that an above ground pool?

21 MR. J. DEGROAT: That's an inground pool.

22 BOARD MEMBER RAMPE: It is. Okay.

23 CHAIRMAN MORDAS: Let's see. How big is your
24 property, acreage?

25 MR. J. DEGROAT: I think it's like a little over a

1 - RE: JASON DEGROAT -

2 half an acre, .57.

3 CHAIRMAN MORDAS: All right.

4 BOARD MEMBER RAMPE: It seems like I'm missing things.
5 There's no tax bill here, there's no pictures. You didn't
6 submit any pictures?

7 MR. J. DEGROAT: Actual photographs?

8 BOARD MEMBER RAMPE: Yes.

9 MR. J. DEGROAT: No, I didn't send photographs.

10 BOARD MEMBER RAMPE: Okay.

11 MS. PLATT: The ZBA doesn't require a tax bill. Do
12 you mean property card?

13 BOARD MEMBER RAMPE: I thought that was this.

14 MS. PLATT: Not a tax bill. That they paid their
15 taxes?

16 BOARD MEMBER RAMPE: No.

17 CHAIRMAN MORDAS: How about a property card?

18 BOARD MEMBER RAMPE: Yes, a property card.

19 MS. PLATT: A property card we would have on file.

20 BOARD MEMBER RAMPE: Because that would have all this
21 info.

22 (Mr. Degroat presented a document to the
23 Zoning Board.)

24 MR. J. DEGROAT: I know we submitted this which
25 has ...

1 - RE: JASON DEGROAT -

2 BOARD MEMBER RAMPE: Yes. Thank you. That has a lot
3 of information on that.

4 MR. J. DEGROAT: And the loft area is only over the
5 two bays. It's not over that third bay.

6 CHAIRMAN MORDAS: Okay.

7 MR. J. DEGROAT: That's a high ceiling because I want
8 to put a lift in it.

9 CHAIRMAN MORDAS: And this is going to be strictly
10 hobby, no commercial.

11 MR. J. DEGROAT: Yeah, no. No. I have an old
12 Chevelle, an old Chevy pickup, dirt bikes, four-wheelers.
13 You know, stuff.

14 CHAIRMAN MORDAS: You've got a lot of toys.

15 MR. J. DEGROAT: Yeah. Stuff that my wife wants out
16 of the house.

17 BOARD MEMBER RAMPE: Is this a prefab building you're
18 looking at?

19 MR. J. DEGROAT: No. I would build it myself.

20 BOARD MEMBER RAMPE: Okay.

21 CHAIRMAN MORDAS: And it's just going to be a slab
22 foundation?

23 MR. J. DEGROAT: Yes.

24 CHAIRMAN MORDAS: Mr. Fournier, any questions for
25 Mr. Degroat?

1 - RE: JASON DEGROAT -

2 ALTERNATE BOARD MEMBER FOURNIER: You had an architect
3 draw this?

4 MR. J. DEGROAT: Yes.

5 ALTERNATE BOARD MEMBER FOURNIER: Okay. Excellent.
6 What are you doing for footings underneath it?

7 MR. J. DEGROAT: What we're going to do is we're going
8 to do 42 inch deep, or 48. I forget what the code is. But
9 it's going to have a full footing all the way around the
10 perimeter.

11 ALTERNATE BOARD MEMBER FOURNIER: And they're going to
12 be ag trusses inside?

13 MR. J. DEGROAT: No, stick frame.

14 ALTERNATE BOARD MEMBER FOURNIER: Stick frame?
15 How high are the garage doors?

16 MR. J. DEGROAT: Two are going to be standard, the two
17 on the one side.

18 CHAIRMAN MORDAS: Standard, seven feet?

19 MR. J. DEGROAT: Yeah, eight by seven. And then the
20 other one I was going to do eight by eight.

21 CHAIRMAN MORDAS: Any more questions from the Board?

22 ALTERNATE BOARD MEMBER FOURNIER: None from me, no.

23 CHAIRMAN MORDAS: Now, Georgia, is there anything,
24 more information you would like Mr. Degroat to provide to
25 us before we schedule the public hearing?

1 - RE: JASON DEGROAT -

2 BOARD MEMBER RAMPE: Well, I would want to know the
3 square footage of the residence, which we could get off the
4 property card; right?

5 You said 2100 square feet. This says 650 for the
6 proposed garage, but I don't know. For some reason I think
7 it should be more than that.

8 (Board Member Findley entered the meeting
9 room.)

10 CHAIRMAN MORDAS: Please note that Kent is present.

11 BOARD MEMBER RAMPE: Other than that, I'm just looking
12 at an alternate area where you can place it.

13 MR. J. DEGROAT: Yeah, that's the problem. See, like
14 -- so all beyond the front of my house where it faces
15 Conway, that's all just graded down to the road. I'm
16 probably, you know, 30 feet higher than the road.

17 BOARD MEMBER RAMPE: Well, where is the front of your
18 house?

19 MR. J. DEGROAT: Can I approach up there?

20 BOARD MEMBER RAMPE: Yes, of course.

21 (Mr. J. Degroat approached the Zoning Board
22 members.)

23 MR. J. DEGROAT: So this is actually the front. This
24 is Conway and Yankee Lake.

25 BOARD MEMBER RAMPE: Conway Road is the front.

1 - RE: JASON DEGROAT -

2 MR. J. DEGROAT: So faces Conway, but then my driveway
3 enters from Yankee Lake Road so everybody just sees the
4 garage doors on the side of my house.

5 BOARD MEMBER RAMPE: Oh, you have garage doors here?

6 MR. J. DEGROAT: Yeah. This is a bilevel.

7 CHAIRMAN MORDAS: Can you speak up a little bit more
8 for our stenographer?

9 MR. J. DEGROAT: So this is a bilevel or a raised
10 ranch. This is two garage doors here, and this is the
11 front. And then --

12 BOARD MEMBER RAMPE: It's patio?

13 MR. J. DEGROAT: Yeah. I don't think it really would
14 fit here. But then I have the pool. And then this is my
15 septic and my leach field. And then this is all a drop
16 down to Conway Road, so this is all a bank.

17 BOARD MEMBER RAMPE: I see.

18 MR. J. DEGROAT: So this is really the only -- I mean
19 it's going to look the best, too. This is really the only
20 location that I believe I can fit it.

21 CHAIRMAN MORDAS: All right.

22 Do you currently have this architect employed?

23 MR. J. DEGROAT: Oh, yes. I paid for the plans. I
24 didn't know that I wasn't meeting the setbacks because I
25 thought it just had to be ten feet from the property line

1 - RE: JASON DEGROAT -

2 and I never even took this as a street wall in
3 consideration because I thought this was the street wall of
4 my house because it's the front of my house. So when I
5 submitted for the application they shocked me with that
6 news, that I couldn't put it there.

7 BOARD MEMBER RAMPE: Is 37 width of the garage?

8 MR. J. DEGROAT: Yes. So this is 37, yes.

9 BOARD MEMBER RAMPE: So 37 by 28 is 1,036 feet; right?
10 37 by 28.

11 MR. J. DEGROAT: Oh, because -- I'm sorry. I'm saying
12 it wrong. So what she's showing here, I guess there's some
13 other rule against covering so much of the property because
14 I have a pool and a patio.

15 CHAIRMAN MORDAS: Well, there's potentially some
16 issues with percent coverage.

17 MR. J. DEGROAT: Right. So that's the calculation
18 that she figured here. That's why she's showing 650.

19 BOARD MEMBER FINDLEY: There's a potential issue with
20 square footage, too, is there not?

21 CHAIRMAN MORDAS: Yes. I would like get a property
22 card. That should give it. But I also would like an
23 estimate of the second story square footage from your
24 architect, the wall space. They have a way of figuring out
25 with like knee walls and whatnot.

1 - RE: JASON DEGROAT -

2 MR. J. DEGROAT: Sure. I mean it probably would just
3 be the 22 by 26; right? Would that be the way you figure
4 that?

5 CHAIRMAN MORDAS: I'd feel more comfortable if the
6 architect would actually --

7 MR. J. DEGROAT Label on there?

8 CHAIRMAN MORDAS: Yes, or add it.

9 BOARD MEMBER RAMPE: Yes. We need to know what's this
10 width and what's this width.

11 MR. J. DEGROAT: Yeah. So that's 22 and that's 15.

12 BOARD MEMBER RAMPE: Oh, okay.

13 MR. J. DEGROAT: 337 feet.

14 BOARD MEMBER RAMPE: This is 15 and this is 22.

15 MR. MOGEL: So lot coverage, was that indicated as one
16 of the reasons for the denial, 199.13?

17 MS. PLATT: She didn't know the lot coverage.

18 CHAIRMAN MORDAS: All right. So 22 here and 15?

19 MR. J. DEGROAT: Yes.

20 CHAIRMAN MORDAS: Okay.

21 MR. J. DEGROAT: Well, once it got kicked back, then
22 the architect started looking deeper so she started talking
23 about lot coverage. She's making sure that we fit within
24 the allowances.

25 CHAIRMAN MORDAS: All right. So according to your

1 - RE: JASON DEGROAT -

2 architect, what's proposed here does fit?

3 MR. J. DEGROAT: Yes. That's why she created this
4 chart here. She's like, I don't know if it will come up,
5 but if it does ...

6 BOARD MEMBER RAMPE: It's 37.

7 MR. J. DEGROAT: So the reason that it reads that way
8 is because currently, it's blacktop, so currently, it's
9 considered --

10 MS. PLATT: A little louder, please.

11 MR. J. DEGROAT: Sorry, I'm just not that loud. Let
12 me stand back here.

13 So the reason it shows that way is because currently,
14 it's blacktop so the blacktop counts as coverage.

15 CHAIRMAN MORDAS: Yes.

16 MR. J. DEGROAT: So the garage is going where the
17 blacktop is existing so it's just adding 650 square feet of
18 additional coverage.

19 CHAIRMAN MORDAS: This isn't going to be the building
20 number, this is just the floor.

21 BOARD MEMBER RAMPE: Oh, okay.

22 MR. MOGEL: That's just lot coverage.

23 CHAIRMAN MORDAS: So this will increase by 650 square
24 feet.

25 MR. J. DEGROAT: Right.

1 - RE: JASON DEGROAT -

2 CHAIRMAN MORDAS: You've got to kind of separate
3 those, the two things there.

4 BOARD MEMBER RAMPE: Okay.

5 CHAIRMAN MORDAS: We've got to figure out how big this
6 building is actually going to be, square footage wise.
7 I've asked Mr. Degroat to get us the numbers for the
8 upstairs so we can get a real good handle on exactly how
9 many square feet this building is proposed.

10 All right. Kent, you probably picked it up by now.
11 We reversed the order of the agenda hoping that you would
12 stop in.

13 BOARD MEMBER FINDLEY: I apologize for being late.

14 CHAIRMAN MORDAS: That's okay. I'm glad you're here.
15 Have you met Mr. Jon Fournier, our new alternate?

16 BOARD MEMBER FINDLEY: We briefly talked.

17 CHAIRMAN MORDAS: All right. So we need the upstairs
18 estimate, square footage wise. We can figure out, based on
19 the information here, what the downstairs is going to be on
20 this proposed garage. We need the property card.

21 May I ask of you permission for our board members to
22 access your property to do an inspection of the property?

23 MR. J. DEGROAT: Sure

24 CHAIRMAN MORDAS: Thank you.

25 Any more questions from the Board?

1 - RE: JASON DEGROAT -

2 BOARD MEMBER FINDLEY: I'm just trying to remember
3 where the code is. Maybe that's what you guys were
4 discussing, but there was an issue in the past with the
5 garage, square footage exceeding the house square footage.

6 MS. PLATT: That's why they want the property card.

7 CHAIRMAN MORDAS: And also, with a structure of 1500
8 square feet or larger potentially needing a site plan with
9 the Planning Board.

10 BOARD MEMBER FINDLEY: Okay.

11 MR. J. DEGROAT: I believe we submitted a site plan.

12 MS. PLATT: To the Planning Board.

13 MR. J. DEGROAT: Oh.

14 BOARD MEMBER FINDLEY: Because according to this, I
15 mean just what this says, the house is 1200 square feet and
16 the proposed garage --

17 CHAIRMAN MORDAS: No. I think --

18 MR. J. DEGROAT: Yeah, that's just the footprint.

19 CHAIRMAN MORDAS: You've got to focus on this. This
20 is the really just porous coverage calculations. So
21 really, the house is double

22 MR. MOGEL: I mean you've got a second story.

23 CHAIRMAN MORDAS: It's roughly 2200 square feet, 2300
24 square feet.

25 BOARD MEMBER FINDLEY: I was having a hard time

1 - RE: JASON DEGROAT -

2 locating that part of the code quickly. Do you know what
3 code that is? We discussed it. There was one real
4 recently where we had this issue.

5 BOARD MEMBER RAMPE: Yes, there was.

6 BOARD MEMBER FINDLEY: I'm struggling to find that in
7 the code again.

8 BOARD MEMBER RAMPE: Kyra will get the number.

9 MS. PLATT: I'm trying.

10 BOARD MEMBER FINDLEY: I just want to read it.

11 MR. J. DEGROAT: Yes, if it were larger than the house
12 I'd be in trouble. It's not larger than the house. The
13 first floor is 24 by 50 and the second floor is 28 by 50.

14 ALTERNATE BOARD MEMBER FOURNIER: Jason, you're
15 building this garage yourself; correct?

16 MR. J. DEGROAT: Yes.

17 ALTERNATE BOARD MEMBER FOURNIER: When you were
18 talking with your architect, I know you said stick built,
19 but tell me how you're going to put the top floor in, the
20 second story.

21 MR. J. DEGROAT: So we're going to, you know, it'll be
22 two by six studs for the first floor wall.

23 ALTERNATE BOARD MEMBER FOURNIER: Okay.

24 MR. J. DEGROAT: Then I believe it calls for maybe two
25 by ten. There's going to be a dividing wall in the 15 foot

1 - RE: JASON DEGROAT -

2 bay from the 22 foot bay because I've got the second floor
3 loft there. It's only over the two bays.

4 CHAIRMAN MORDAS: You said 199-15? We'll have time to
5 figure all this out.

6 ALTERNATE BOARD MEMBER FOURNIER: What's the maximum
7 span you're going to have on your floor joist? And are
8 they equal based?

9 MR. J. DEGROAT: I mean I think what I would like to
10 do -- I think what I would like to do is probably frame
11 them 12 on center so that way I could have the 22 foot span
12 without lally columns or anything like that in the center.

13 ALTERNATE BOARD MEMBER FOURNIER: Is your architect
14 allowing you to go with 10 inch joist span, 12 feet?

15 MR. J. DEGROAT: It might be 12. It might be 2 by 12.

16 ALTERNATE BOARD MEMBER FOURNIER: 12 inches is usually
17 customary for a 12 foot.

18 MR. J. DEGROAT: Yeah, it might be 2 by 12. I haven't
19 looked at the plan.

20 ALTERNATE BOARD MEMBER FOURNIER: That will be a full
21 size. You have the walls and the joists so it will be a
22 full room.

23 MR. J. DEGROAT: Yes.

24 ALTERNATE BOARD MEMBER FOURNIER: There are going to
25 be ceiling joists.

1 - RE: JASON DEGROAT -

2 MR. J. DEGROAT: Yes.

3 ALTERNATE BOARD MEMBER FOURNIER: Roof trusses.

4 MR. J. DEGROAT: Right. So it would be 2 by 6 walls,
5 probably 2 by 12 floor joists, 2 by 6 walls and then to 2
6 by 12 rafters or whatever it calls for beyond that.

7 ALTERNATE BOARD MEMBER FOURNIER: So that will be
8 double in size, then, correct, for the square footage, the
9 downstairs and the upstairs.

10 MR. J. DEGROAT: Essentially, yeah, for that 22 by --
11 what is it? 22 by 26 foot section.

12 ALTERNATE BOARD MEMBER FOURNIER: Right.

13 MR. J. DEGROAT: Whatever 22 times 26 is.

14 CHAIRMAN MORDAS: All right. Any more questions from
15 the Board?

16 (No verbal response.)

17 CHAIRMAN MORDAS: We're going to have our homework to
18 do on this one.

19 BOARD MEMBER RAMPE: Yes. I'm wondering about this
20 existing shed. Do you know how big that is?

21 MR. J. DEGROAT: It's like -- I want to say it's 15 by
22 14, or something like that.

23 CHAIRMAN MORDAS: That's a good question, Georgia.

24 BOARD MEMBER RAMPE: Is that on a slab?

25 MR. J. DEGROAT: No, no. That just like a shed.

1 - RE: JASON DEGROAT -

2 CHAIRMAN MORDAS: All right.

3 MR. J. DEGROAT: Full of bicycles, mostly.

4 CHAIRMAN MORDAS: All right.

5 BOARD MEMBER RAMPE: Did you find the code?

6 BOARD MEMBER FINDLEY: I did, I did. it's accessory
7 structure use which exceeds the gross floor area of the
8 principal structure shall not be exempt from these
9 regulations, and that's the site plan.

10 CHAIRMAN MORDAS: All right. Any more questions from
11 the Board?

12 BOARD MEMBER RAMPE: No, not from me.

13 CHAIRMAN MORDAS: All right. Do I have a motion to
14 set up a public hearing?

15 BOARD MEMBER RAMPE: I'll make the motion.

16 CHAIRMAN MORDAS: Do I have a second?

17 BOARD MEMBER FINDLEY: Second.

18 CHAIRMAN MORDAS: All in favor?

19 BOARD MEMBER RAMPE: Aye.

20 BOARD MEMBER FINDLEY: Aye.

21 ALTERNATE BOARD MEMBER FOURNIER: Aye.

22 CHAIRMAN MORDAS: Aye.

23 (The motion was approved and carried

24 CHAIRMAN MORDAS: All right, Mr. Degroat, you're going
25 to need to confer with Kyra. There's going to be a

1 - RE: JASON DEGROAT -

2 required mailing, a radius around your house. Kyra will
3 provide you with all the addresses.

4 I expect to see you next month. I'm not quite sure
5 what the date is, but it's the fourth Thursday of the
6 month.

7 MS. PLATT: March 28th.

8 CHAIRMAN MORDAS: March 28th.

9 MR. J. DEGROAT: March 28th? Okay.

10 CHAIRMAN MORDAS: Thank you.

11 MR. J. DEGROAT: Thank you. I plow everybody's
12 driveway around me. I should be in pretty good shape.

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

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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings in the matter of Jason Degroat, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.



ROSEMARY A. MEYER

Date Transcribed: March 19, 2019

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

----- X

Patrick Theodore
Area Variance
Tax Map Section 56; Block 5; Lot 3
Neighborhood Residential Zone

----- X

Town Hall
Town of Mamakating
February 28, 2019
7:30 P.M.

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Reported by: Rosemary A. Meyer

1 - RE: PATRICK THEODORE -

2 CHAIRMAN MORDAS: All right. Next on the agenda,
3 Mr. Patrick Theodore. Would you mind refreshing us as to
4 what's going on with your property here?

5 MR. P. THEODORE: Hi. Good evening. Patrick
6 Theodore, 37 North Shore Drive, Wurtsboro, New York.

7 Basically today, I'm hoping to get a variance
8 approved. I had a previous garage that was there when the
9 house was built in 1937. It was knocked down during a wind
10 storm back in May 15, 2018.

11 I submitted plans to have the garage replaced. At
12 this time, basically, the plans I have, I'm just replacing
13 what was there, the same size. It's actually not the same
14 size, it's slightly smaller. The garage is going to be on
15 the concrete slab that's at the location that's
16 preexisting. And I was informed, through the building
17 inspector, that it didn't, it violated, I guess the code,
18 the previous code that was there, that the garage is too
19 close to the roadway. At this time, I'd just like to get
20 approval to replace what I had, you know, which was taken
21 down in the storm.

22 ALTERNATE BOARD MEMBER FOURNIER: When was this taken
23 down?

24 MR. P. THEODORE: This was taken down in a microburst
25 storm last year. That was Tuesday, May 15, 2018.

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2 CHAIRMAN MORDAS: That's when it was damaged. When
3 was the building demolished?

4 MR. P. THEODORE: The building -- well, the tree
5 pretty much did the demolishing. I had the property
6 removed back in -- I don't recall the specific date
7 offhand. I apologize. It was sometime in August.

8 CHAIRMAN MORDAS: All right.

9 And I'm not sure if I requested this, but I'm just
10 hoping. Do you have any pictures of the old garage?

11 MR. P. THEODORE: I do on my cell phone. If I can
12 approach you.

13 CHAIRMAN MORDAS: Sure, please.

14 BOARD MEMBER RAMPE: I have one with the tree on it.

15 BOARD MEMBER FINDLEY: Do you? Let's see it.

16 (Photographs were produced.)

17 MR. P. THEODORE: That's the base of the tree when the
18 garage was taken down.

19 CHAIRMAN MORDAS: All right.

20 ALTERNATE BOARD MEMBER FOURNIER: I'm sorry.

21 BOARD MEMBER FINDLEY: Oh, that's with the tree on it,
22 too.

23 MR. P. THEODORE: Yes.

24 CHAIRMAN MORDAS: Do you have any pre-storm?

25 MR. P. THEODORE: Yes, I should.

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2 BOARD MEMBER RAMPE: That storm caused a lot of
3 damage.

4 ALTERNATE BOARD MEMBER FOURNIER: You want to put your
5 garage here; correct?

6 MR. P. THEODORE: Yeah, right on that existing
7 concrete slab.

8 ALTERNATE BOARD MEMBER FOURNIER: Obviously, it tore
9 down the power line; correct?

10 MR. P. THEODORE: Yes.

11 ALTERNATE BOARD MEMBER FOURNIER: And your garage to
12 the left of the house.

13 MR. P. THEODORE: Yes.

14 ALTERNATE BOARD MEMBER FOURNIER: And your driveway,
15 this is your driveway going to the front and on an angle
16 into the garage?

17 MR. P. THEODORE: Yeah. My driveway comes out on two
18 angles. It comes out on that side, over there, and this
19 side.

20 ALTERNATE BOARD MEMBER FOURNIER: All right.

21 What was the year, again, that garage was built?

22 MR. P. THEODORE: I'm going off the plans that I had
23 so I'm assuming it was built with the house in 1937.

24 ALTERNATE BOARD MEMBER FOURNIER: Okay.

25 BOARD MEMBER FINDLEY: Does the house have a similar

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2 stone foundation?

3 MR. P. THEODORE: Yes.

4 BOARD MEMBER FINDLEY: Because the garage in the
5 picture has a stone foundation.

6 CHAIRMAN MORDAS: Mr. Theodore, do you have a picture
7 that I could see pre-storm?

8 MR. P. THEODORE: I'm looking.

9 CHAIRMAN MORDAS: All right.

10 BOARD MEMBER FINDLEY: Is the stone going to stay in
11 the rebuilt?

12 MR. P. THEODORE: The stone is going to stay.

13 BOARD MEMBER FINDLEY: Good.

14 MR. P. THEODORE: All I'm building, I'm having a
15 prefab structure by Grey's Woodwork dropped right there.

16 CHAIRMAN MORDAS: Roughly what's the square footage of
17 the prefab?

18 MR. P. THEODORE: The prefab is 17 by 19.

19 CHAIRMAN MORDAS: By 19.

20 And are you going to have a second story on it?

21 MR. P. THEODORE: No.

22 CHAIRMAN MORDAS: Okay.

23 BOARD MEMBER RAMPE: Here's a picture of the garage.

24 ALTERNATE BOARD MEMBER FOURNIER: Patrick, do you have
25 a blueprint of the proposed garage you want to have?

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2 (Board Member Rampe produced a photograph.)

3 BOARD MEMBER FINDLEY: Yes, that's pretty much
4 demolished.

5 BOARD MEMBER RAMPE: Yes. He didn't have much of a
6 choice.

7 CHAIRMAN MORDAS: And how many square feet is your
8 existing dwelling?

9 MR. P. THEODORE: My existing dwelling is
10 approximately twice the size.

11 MR. MOGEL: I'm just going to state this for the
12 record. This gentleman was here previously.

13 CHAIRMAN MORDAS: Maybe we should open up the public
14 hearing first --

15 MR. MOGEL: Sure.

16 CHAIRMAN MORDAS: -- and hear some opinions or
17 statements from the people that are attending.

18 BOARD MEMBER RAMPE: So I'll make a motion to open up
19 the public hearing.

20 CHAIRMAN MORDAS: Any more questions for Mr. Theodore
21 before we do this?

22 (No verbal response.)

23 CHAIRMAN MORDAS: We can always as a few later.

24 Okay, Georgia has made the motion.

25 BOARD MEMBER FINDLEY: I second it.

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2 CHAIRMAN MORDAS: All in favor?

3 BOARD MEMBER RAMPE: Aye.

4 BOARD MEMBER FINDLEY: Aye.

5 ALTERNATE BOARD MEMBER FOURNIER: Aye.

6 CHAIRMAN MORDAS: Aye.

7 (The motion was approved and carried

8 CHAIRMAN MORDAS: Before I proceed any further, Kyra,
9 were the mailings been done correctly, in your judgment?

10 MS. PLATT: Yes.

11 CHAIRMAN MORDAS: And the notifications to our
12 newspapers, local newspapers of choice?

13 MS. PLATT: Yes.

14 CHAIRMAN MORDAS: Okay. Thank you, Mr. Theodore.
15 Who's first on the list?

16 MS. PLATT: Alonzo Hand.

17 CHAIRMAN MORDAS: Mr. Hand.

18 MR. A. HAND: The only thing I would ask of
19 Mr. Theodore is the outhouse going back on the garage?

20 CHAIRMAN MORDAS: State your name, Mr. Hand.

21 MR. A. HAND: My name is Alonzo Hand, Jr. I live at
22 51 North Shore Road.

23 And after the storm had hit, I noticed a big tree on
24 his property, but it looks like he had a little outcropping
25 on the back of the building?

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2 MR. P. THEODORE: Yes.

3 MR. A. HAND: Is that an outhouse?

4 MR. P. THEODORE: That was an outhouse, that is
5 correct. Right now I don't have, in this plan, to replace
6 the outhouse at this time.

7 MR. A. HAND: Okay. Can that be eliminated or
8 something to reduce any seepage into our water?

9 MR. P. THEODORE: Yes. I mean if I had to, I would
10 apply for another permit to build the outhouse, but right
11 now there's no -- it's not in my existing plan to replace
12 it.

13 MR. A. HAND: You have plumbing in your house?

14 MR. P. THEODORE: Yes, I do.

15 MR. A. HAND: Is there any need for the outhouse in
16 the garage?

17 MR. P. THEODORE: Not at the time, no.

18 MR. A. HAND: That's all my questions. That's all.
19 Thank you.

20 CHAIRMAN MORDAS: Thank you, Mr. Hand.

21 Anybody else on the list?

22 MS. PLATT: There's nobody else on the list.

23 CHAIRMAN MORDAS: All right. So that's an
24 affirmative. There's going to be no plumbing involved with
25 this replacement shed.

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2 MR. P. THEODORE: That is correct.

3 CHAIRMAN MORDAS: All right. If you decide that you
4 want to explore that issue, you will go through the
5 Building Department.

6 MR. P. THEODORE: That's correct.

7 CHAIRMAN MORDAS: Thank you, Mr. Theodore.

8 MR. P. THEODORE: You're welcome.

9 CHAIRMAN MORDAS: All right. Motion to close the
10 public hearing?

11 BOARD MEMBER RAMPE: I'll make a motion to close it.

12 CHAIRMAN MORDAS: Do I have a second?

13 ALTERNATE BOARD MEMBER FOURNIER: Second.

14 MS. PLATT: Jon just seconded it.

15 CHAIRMAN MORDAS: All in favor?

16 BOARD MEMBER RAMPE: Aye.

17 BOARD MEMBER FINDLEY: Aye.

18 ALTERNATE BOARD MEMBER FOURNIER: Aye.

19 CHAIRMAN MORDAS: Aye.

20 (The motion was approved and carried.)

21 CHAIRMAN MORDAS: All right. Any more questions from
22 the Board for Mr. Theodore?

23 BOARD MEMBER RAMPE: Not from me.

24 BOARD MEMBER FINDLEY: Is there anything you're doing
25 different to the structure than was previously there?

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2 MR. P. THEODORE: No.

3 BOARD MEMBER FINDLEY: It's no taller?

4 MR. P. THEODORE: No.

5 BOARD MEMBER FINDLEY: No wider?

6 MR. P. THEODORE: No. It's actually smaller in size.

7 ALTERNATE BOARD MEMBER FOURNIER: That bid sheet that
8 you showed me, that's the company that's going to come in
9 and actually build the garage on top of your existing slab
10 or structure that you have; correct?

11 MR. P. THEODORE: Yes, that is correct. It's going to
12 come prefab.

13 ALTERNATE BOARD MEMBER FOURNIER: Oh, okay.

14 MR. P. THEODORE: What I gather, it's just going to be
15 delivered, dropped off and secured properly to the concrete
16 slab.

17 ALTERNATE BOARD MEMBER FOURNIER: Are you going to
18 have electricity in the garage?

19 MR. P. THEODORE: Yes, I will. And I had electricity
20 in the previous garage. If need be do I -- if I need to
21 apply for a permit for that, too, I would do it.

22 CHAIRMAN MORDAS: Well, you're going to have to go
23 through the Building Department. Just the size of a
24 replacement structure requires a building permit.

25 MR. P. THEODORE: Correct.

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2 CHAIRMAN MORDAS: So at that time --

3 MS. PLATT: The location, not the size.

4 CHAIRMAN MORDAS: What?

5 MS. PLATT: The location of the garage.

6 CHAIRMAN MORDAS: What about it?

7 MS. PLATT: That's why he's before you guys.

8 CHAIRMAN MORDAS: I know. But he's still going to
9 need a building permit.

10 MS. PLATT: Yes.

11 CHAIRMAN MORDAS: Okay.

12 MR. MOGEL: Well, I indicated the last time that you
13 were here, some of the members had raised the issue of
14 199-51(C)(1), that this is a noncomplying building.
15 Pursuant to that section, it says: Noncomplying building
16 may be continued, repaired, structurally altered, moved,
17 reconstructed or enlarged provided that such action does
18 not increase the degree of or create any new nonconformity
19 to district bulk regulations. I believe I gave my opinion
20 at that time that you fell squarely within that provision.
21 I think that the Board had recommended that you go approach
22 the Building Department again to discuss whether this
23 matter really should be in front of the Zoning Board or
24 whether, since you fall squarely within that, that there
25 would be no need for a variance.

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2 Kyra, are you familiar with what occurred?

3 MS. PLATT: So I discussed with the building inspector
4 and because it was an entire structure that was removed and
5 is being rebuilt, she felt that they would need to apply
6 for the variance.

7 MR. MOGEL: Okay.

8 CHAIRMAN MORDAS: I spoke with Mary, too, and she
9 expressed to me that she really didn't have enough
10 background information on the previous structure and
11 because of a lack of a demolition permit, she didn't have
12 an opportunity to look at the remains of the structure. So
13 basically, she said that she would rather err on the side
14 of safety, if I'm interpreting what she said correctly.
15 It's really just trying to stay consistent, that she might
16 not have rendered this judgment or issued a violation if
17 she had some -- it's not a violation. I'm sorry.
18 Requested that you come before us for a variance. She
19 might not have done that if she had more background
20 information on your building.

21 BOARD MEMBER RAMPE: On the garage itself.

22 CHAIRMAN MORDAS: Yes.

23 MR. P. THEODORE: Can I just say one more thing?

24 CHAIRMAN MORDAS: Sure.

25 MR. P. THEODORE: In terms of what would have been a

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2 demolition permit, I didn't think that I needed one because
3 at that point, like I said, the garage was down. It was
4 just a matter of cleaning the debris out of there. It
5 looked terrible. I wanted to get it out as quickly as
6 possible.

7 MR. MOGEL: In my opinion, at this point, the Building
8 Department, it's certainly the prerogative of the building
9 inspector to kick this matter to the ZBA. At this point
10 from a procedural and a legal standard the answer would
11 truly be the same. The answer is whether the ZBA elects to
12 provide this gentleman with a variance which, in essence,
13 you've already incurred all the expense and difficulties
14 for. He's gone out and done the mailings, which is the
15 expense, he's already paid the application fee and he's
16 already showed up here twice. He has done everything that
17 we would ordinarily ask of an applicant who's requesting an
18 area variance. There's certainly no harm in providing him
19 the variance if the Board so elects to grant it.

20 The only other legal outcome that could come is if the
21 Board was going to somehow convert this into an
22 interpretation, issue an interpretation, which would simply
23 be a change in what comes out of a public hearing. In my
24 opinion, I'm not sure that that would be the best and
25 safest legal way to address the situation simply because

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2 there is a deviation from what went out on the public
3 notice and I don't see any legal reason or practical reason
4 why it would be necessary to change this into an
5 interpretation. It would be my preference that the Town
6 not put itself in a position where someone could
7 conceivably challenge the accuracy of the public hearing
8 notice since that was for an area variance as opposed to an
9 interpretation. That would be my opinion.

10 CHAIRMAN MORDAS: All right. Thank you, Counsel.

11 MR. THEODORE: Can I just say one more thing? The
12 location that I have for the garage is the same location.
13 It is probably the most convenient place for myself, as
14 well as my neighbors. My property recesses as it goes down
15 toward the lake. There would really be no other practical
16 place for me to put a garage. That's why I'm requesting
17 it, I be able to keep it in the same place?

18 CHAIRMAN MORDAS: I visited your property and I agree
19 with you in those regards. I'm just speaking for myself
20 here. I don't have an issue with granting you relief from
21 199-13(C)(2). My concern was if any issues were brought up
22 in the public hearing. I think you've answered those to
23 the public's satisfaction.

24 Before I go any further, I just want to make sure this
25 is the only issue that we're dealing with, is 199-13(C)(2)?

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2 MS. PLATT: So she's just referencing the front yard
3 setback, that it's closer to the street than the street
4 wall of the dwelling. The site plan provided the side of
5 the shed does show eight feet off of the side line instead
6 of ten. It's still an area variance. I don't know if you
7 would want to --

8 CHAIRMAN MORDAS: All right. So he's going to require
9 a setback of two feet.

10 MS. PLATT: Well, 1.2 feet. It's at .8 feet.

11 CHAIRMAN MORDAS: All right, 1.2. All right. So that
12 would be (C)(1), the side yard setback? Or is that from
13 the bulk tables?

14 MR. MOGEL: That would be from the bulk table. Yes,
15 it's from bulk.

16 CHAIRMAN MORDAS: Neighborhood residential.

17 MR. MOGEL: I think if you just look at accessory
18 structures.

19 MS. PLATT: It would just be for accessory structure.

20 CHAIRMAN MORDAS: All right. (C)(2).

21 MR. MOGEL: Okay.

22 CHAIRMAN MORDAS: So no accessory structure is closer
23 than 10 feet to the side yard.

24 MR. MOGEL: Yes.

25 BOARD MEMBER FINDLEY: Are we still allowed to ask

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2 questions?

3 CHAIRMAN MORDAS: Go ahead, Kent.

4 BOARD MEMBER FINDLEY: Did you offer any photos to the
5 building inspector that showed the structure beforehand?

6 MR. THEODORE: No, I did not do that. I didn't have
7 that opportunity.

8 CHAIRMAN MORDAS: All right. We closed the public
9 hearing.

10 MR. MOGEL: You need to go through the criteria. When
11 you go through the criteria you go through it once.

12 CHAIRMAN MORDAS: Once for both?

13 MR. MOGEL: For both. I'm assuming nobody's going to
14 have an issue.

15 CHAIRMAN MORDAS: In regards to granting this
16 applicant relief from 199-13(C)(1) and 199-13(C)(2), on
17 (C)(1), I'd like a motion to proceed to a vote. Do I have
18 a motion to proceed to a vote?

19 BOARD MEMBER FINDLEY: I'll make the motion.

20 CHAIRMAN MORDAS: Do I have a second?

21 BOARD MEMBER RAMPE: I'll make the second.

22 CHAIRMAN MORDAS: All in favor?

23 BOARD MEMBER RAMPE: Aye.

24 BOARD MEMBER FINDLEY: Aye.

25 ALTERNATE BOARD MEMBER FOURNIER: Aye.

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2 CHAIRMAN MORDAS: Aye.

3 (The motion was approved and carried

4 CHAIRMAN MORDAS: All right. Before we vote on this I
5 must read the criteria.

6 MR. MOGEL: You're covering both requests.

7 CHAIRMAN MORDAS: We're going to cover both variances
8 on this one reading here.

9 BOARD MEMBER RAMPE: So what reading is this about?

10 CHAIRMAN MORDAS: Area variance.

11 BOARD MEMBER RAMPE: Okay.

12 CHAIRMAN MORDAS: In making its determination the
13 Zoning Board shall take into consideration the benefit to
14 the applicant if the variance is warranted as weighed
15 against the detriment to the health, safety and welfare of
16 the neighborhood or community by such grant.

17 In making such determination the Board shall also
18 consider whether an undesirable change will be produced in
19 the character of the neighborhood or a detriment to nearby
20 properties will be created by the granting of the area
21 variance.

22 Jon, I'm going to need a yes or a no on that last
23 statement I made. Do you agree with that?

24 ALTERNATE BOARD MEMBER FOURNIER: I agree with that,
25 yes.

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2 CHAIRMAN MORDAS: Kent.

3 BOARD MEMBER FINDLEY: No objection.

4 CHAIRMAN MORDAS: Georgia.

5 BOARD MEMBER RAMPE: No.

6 CHAIRMAN MORDAS: All right. I'm going to say no.

7 The next criteria, whether the benefit sought by the
8 applicant can be achieved by some method feasible for the
9 applicant to pursue other than an area variance.

10 I'm going to say no in this case.

11 Georgia.

12 BOARD MEMBER RAMPE: No.

13 CHAIRMAN MORDAS: Kent.

14 BOARD MEMBER FINDLEY: No.

15 CHAIRMAN MORDAS: Jon.

16 ALTERNATE BOARD MEMBER FOURNIER: No.

17 CHAIRMAN MORDAS: Whether the requested area variance
18 is substantial.

19 Georgia.

20 BOARD MEMBER RAMPE: No.

21 CHAIRMAN MORDAS: Kent.

22 BOARD MEMBER FINDLEY: No.

23 CHAIRMAN MORDAS: Jon.

24 ALTERNATE BOARD MEMBER FOURNIER: No.

25 CHAIRMAN MORDAS: I'll say no.

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2 Whether the proposed variance will have an adverse
3 effect or impact on the physical or environmental
4 conditions in the neighborhood or district.

5 I'm going to say no.

6 Georgia

7 BOARD MEMBER RAMPE: No.

8 CHAIRMAN MORDAS: Kent.

9 BOARD MEMBER FINDLEY: No.

10 CHAIRMAN MORDAS: Jon.

11 ALTERNATE BOARD MEMBER FOURNIER: No.

12 CHAIRMAN MORDAS: And lastly, whether the alleged
13 difficulty was self-created, which consideration shall be
14 relevant to the decision of the Zoning Board but shall not
15 necessarily preclude the granting of the area variance.

16 I look at this almost as an act of God. I'm going to
17 say no..

18 BOARD MEMBER RAMPE: No.

19 CHAIRMAN MORDAS: Kent.

20 BOARD MEMBER FINDLEY: No.

21 CHAIRMAN MORDAS: Jon.

22 ALTERNATE BOARD MEMBER FOURNIER: No.

23 CHAIRMAN MORDAS: In regards to 199-13(C)(1),
24 providing this applicant relief from the side yard setback
25 requirement of ten feet for an accessory structure, do I

1 - RE: PATRICK THEODORE -

2 have a variance granting Mr. Theodore a 1.2 foot variance
3 from the 10 foot side yard setback? How do we vote on
4 this?

5 Jon?

6 ALTERNATE BOARD MEMBER FOURNIER: I don't understand
7 that. The garage was already there; correct?

8 CHAIRMAN MORDAS: Yes.

9 ALTERNATE BOARD MEMBER FOURNIER: And so the footings
10 are actually out there and so they were encroaching on it
11 since 1937?

12 CHAIRMAN MORDAS: Yes, according to Mr. Theodore.

13 ALTERNATE MEMBER FOURNIER: Grandfathered in so I'd
14 say fine with me.

15 CHAIRMAN MORDAS: Kent.

16 BOARD MEMBER FINDLEY: I'm voting yes.

17 CHAIRMAN MORDAS: Georgia.

18 BOARD MEMBER RAMPE: Yes.

19 CHAIRMAN MORDAS: I'll vote yes.

20 In regards to the accessory structure being closer to
21 the road than the front wall of the primary structure,
22 199-13(C)(2), how does this board vote in regards to
23 granting relief from this code?

24 I'm going to vote yes.

25 Georgia.

1 - RE: PATRICK THEODORE -
2 BOARD MEMBER RAMPE: Yes.
3 CHAIRMAN MORDAS: Kent.
4 BOARD MEMBER FINDLEY: Yes.
5 ALTERNATE BOARD MEMBER FOURNIER: Yes.
6 CHAIRMAN MORDAS: Okay. Good luck with your project.
7 MR. P. THEODORE: Thank you very much.
8 BOARD MEMBER RAMPE: You're welcome.
9 CHAIRMAN MORDAS: Thank you, sir.
10 CHAIRMAN MORDAS: Do I have a motion to close the
11 meeting?
12 BOARD MEMBER FINDLEY: I'll make that motion.
13 CHAIRMAN MORDAS: All right.
14 BOARD MEMBER RAMPE: I'll second it.
15 CHAIRMAN MORDAS: All in favor?
16 BOARD MEMBER RAMPE: Aye.
17 BOARD MEMBER FINDLEY: Aye.
18 ALTERNATE BOARD MEMBER FOURNIER: Aye.
19 CHAIRMAN MORDAS: Aye.

20 (The motion was approved and carried.)

21 (Time noted: 7:55 p.m.)

22 * * * * *

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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings in the matter of Patrick Theodore, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

A handwritten signature in cursive script that reads "Rosemary A. Meyer".

ROSEMARY A. MEYER

Date Transcribed: March 22, 2019

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