

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

Meeting Minutes
3-22-18
March 22, 2018

Jeric Corporation
Court Reporting Services
P.O. Box 385
Narrowsburg, NY 12764
(845) 252-3515

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ZONING BOARD OF APPEALS

MINUTES

March 22, 2018

TOWN HALL

WURTSBORO, NEW YORK

ZONING BOARD MEMBERS :

MATTHEW MORDAS, Chairman

GEORGIA RAMPE, Board Member

CATHY DAWKINS, Board Member

KENT FINDLEY, Board Member

MATTHEW MORREALE, Board Member

STEVEN MOGEL, ESQ., Attorney

KYRA PLATT, Building Department

JERIC CORPORATION
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P.O. Box 385
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Reported by: Rosemary A. Meyer

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

----- X

John Shorten
Area Variance
Tax Map Section 44; Block 1; Lot 30.1
Town Center Zone

----- X

Town Hall
Town of Mamakating
March 22, 2018
7:03 P.M.

ZONING BOARD MEMBERS :

- MATTHEW MORDAS, Chairman
- GEORGIA RAMPE, Board Member
- CATHY DAWKINS, Board Member
- KENT FINDLEY, Board Member
- MATTHEW MORREALE, Board Member
- STEVEN MOGEL, ESQ., Attorney
- KYRA PLATT, Building Department

Also Present: John Shorten, Applicant

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Reported by: Rosemary A. Meyer

1 - RE: J. SHORTEN -

2 CHAIRMAN MORDAS: Good evening, ladies and gentlemen.
3 Welcome to the Mamakating Zoning Board of Appeals meeting
4 for March 22nd.

5 I'm your chairman, Matthew Mordas. I start the
6 meeting off with a roll call.

7 Georgia Rampe.

8 BOARD MEMBER RAMPE: Here.

9 CHAIRMAN MORDAS: Cathy Dawkins.

10 BOARD MEMBER DAWKINS: Yes.

11 CHAIRMAN MORDAS: Kent Findley.

12 BOARD MEMBER FINDLEY: Here.

13 CHAIRMAN MORDAS: Matthew Morreale.

14 BOARD MEMBER MORREALE: Present.

15 CHAIRMAN MORDAS: And our counsel tonight, as usual,
16 Steve Mogel.

17 First order of business is our acceptance of our
18 minutes.

19 Kent, we never accepted our January 25th minutes.
20 Have you had time to read those?

21 BOARD MEMBER FINDLEY: I have not received them.

22 BOARD MEMBER RAMPE: You can go on the web site.

23 CHAIRMAN MORDAS: So the minutes will always be posted
24 first up to the web site.

25 All right. We can table this 'til next meeting and

1 - RE: J. SHORTEN -

2 we'll vote on that in the future.

3 BOARD MEMBER FINDLEY: Sure.

4 CHAIRMAN MORDAS: Okay.

5 BOARD MEMBER FINDLEY: Is that where they're going to
6 be posted, on the web site? That's how we'll get them?

7 CHAIRMAN MORDAS: Yes.

8 BOARD MEMBER FINDLEY: Okay.

9 CHAIRMAN MORDAS: And generally, we're trying to get
10 it down to about a month after the meeting.

11 BOARD MEMBER FINDLEY: That's fine.

12 BOARD MEMBER FINDLEY: All right.

13 CHAIRMAN MORDAS: So in the future --

14 BOARD MEMBER FINDLEY: A new policy?

15 CHAIRMAN MORDAS: Yes, this is new policy.

16 All right. First on the agenda is Mr. Shorten.

17 Before we open up the public hearing would you like to
18 address the Board one more time?

19 MR. SHORTEN: At the last meeting you guys had said
20 to, you know, forward over the pictures. I sent everybody
21 a copy of them. Actually, Kyra helped me out with that. I
22 did bring other pictures that you guys wanted.

23 CHAIRMAN MORDAS: Please pass them around.

24 MR. SHORTEN: Yeah. If you could, yeah.

25 STENOGRAPHER: Excuse me. Could I have your name,

1 - RE: J. SHORTEN -

2 please?

3 MR. SHORTEN: John Shorten.

4 CHAIRMAN MORDAS: And he lives in Wurtsboro.

5 MR. SHORTEN: Yeah.

6 CHAIRMAN MORDAS: All right.

7 All right. Do you have anything to add verbally
8 or ...

9 MR. SHORTEN: Not really. I mean just -- I mean I'm
10 kind of befuddled why I was rejected in the first place
11 knowing that, you know, the location, the privacy that I
12 have back there, and, you know, just the amount of property
13 and, you know, dwellings that I have back there. So ...

14 BOARD MEMBER FINDLEY: Can we just go over these
15 photos? I'm sorry.

16 BOARD MEMBER MORREALE: Give us a little, where are we
17 looking.

18 MR. SHORTEN: This is actually -- at the last meeting
19 they wanted to know the distance because they said it was
20 pretty close to the walking trail. The walking trail is
21 probably like right here.

22 Now you're looking right towards my rental cabin right
23 there. There's a shed and behind the shed is where the
24 pole barn would go. And then from the pole barn --

25 BOARD MEMBER FINDLEY: This is just zoomed up?

1 - RE: J. SHORTEN -

2 MR. SHORTEN: They're, like, pictures from different
3 angles is what they wanted.

4 BOARD MEMBER MORREALE: This is the road --

5 MR. SHORTEN: This is my driveway, yes. That's my
6 private drive.

7 BOARD MEMBER MORREALE: But Route 209 is down there?

8 MR. SHORTEN: No. 209 is, like, way up here.

9 BOARD MEMBER MORREALE: Right, right.

10 MR. SHORTEN: Yeah, 1,063 feet; yeah, from where
11 that's going to be.

12 BOARD MEMBER MORREALE: And this is the rental.

13 BOARD MEMBER DAWKINS: It's way up here.

14 MR. SHORTEN: Yeah, way, way up there.

15 BOARD MEMBER MORREALE: This is the rental?

16 MR. SHORTEN: Yeah.

17 I did -- I also, I had a landscaper come over and a
18 surveyor come over to help me with the measurements and
19 stuff like that, and they were pretty, pretty darn close.

20 BOARD MEMBER MORREALE: And this is from 209?

21 MR. SHORTEN: That's 209 looking down toward it.

22 BOARD MEMBER MORREALE: Right.

23 MR. SHORTEN: You can almost see, you know, my one.
24 But that's actually my big house. The little house sits
25 like way over here.

1 - RE: J. SHORTEN -

2 BOARD MEMBER MORREALE: Okay.

3 BOARD MEMBER DAWKINS: So looking at this picture,
4 where is the proposed structure?

5 MR. SHORTEN: It's going to go behind that shed.

6 BOARD MEMBER DAWKINS: So back in here?

7 MR. SHORTEN: Yeah. Like, it's, it's --

8 BOARD MEMBER FINDLEY: Like right here.

9 MR. SHORTEN: Right. It's -- it's actually -- there's
10 a lot, the little spot where I had prepared for it.

11 BOARD MEMBER DAWKINS: I was going to say we were down
12 there.

13 MR. SHORTEN: Yes. That's what my daughter said.

14 BOARD MEMBER DAWKINS: We met your daughter.
15 And it kind of looked like you could tell. You're
16 right in the back.

17 Were we at the site and I was confirming.

18 CHAIRMAN MORDAS: We got a Negative Declaration from
19 the County.

20 MR. SHORTEN: To be honest with, I'm doing it for my
21 tenants. They're going to be using it all the time. I'm
22 going to have no use of this.

23 Oh, that's just all my certificates and stuff.

24 BOARD MEMBER MORREALE: From the mailer?

25 MR. SHORTEN: Yeah, all the mailers and my receipts.

1 - RE: J. SHORTEN -

2 BOARD MEMBER FINDLEY: And you said you got
3 measurements? You took measurements?

4 MR. SHORTEN: Oh, I took -- yeah. On the first
5 original permit that I put in with the Town, all my
6 measurements were stated on there. And then I had the
7 surveyor from Pine Bush. He's noted and verified a lot of
8 them. So, I mean they're pretty accurate, you know.
9 So ...

10 CHAIRMAN MORDAS: Can you point something out here for
11 me?

12 MR. SHORTEN: I sure can.

13 CHAIRMAN MORDAS: All right. So you're going to put
14 right here?

15 MR. SHORTEN: I'm looking to put it, actually, right
16 here. Yeah, see that little spot that's kind of cleared
17 right there? I'm going to put it right in there.

18 CHAIRMAN MORDAS: And this is your property border.
19 It's right on the far side of the drive?

20 MR. SHORTEN: There's a stone wall, like, right about
21 here and that would be the property border for that lot.

22 CHAIRMAN MORDAS: Okay. You own that extra lot down
23 there.

24 MR. SHORTEN: I own all three of the lots. I own that
25 whole side of the road.

1 - RE: J. SHORTEN -

2 BOARD MEMBER DAWKINS: So this drawing that was in
3 your -- oh, this is not yours.

4 MR. SHORTEN: Sure, that's a good one.

5 CHAIRMAN MORDAS: That's from the instructions.

6 MR. MOGEL: That's an example.

7 BOARD MEMBER DAWKINS: That's what I was going to say.
8 It looks pretty square.

9 MR. SHORTEN: I got the original paperwork. But I
10 think from the corner of the garage, because the garage is
11 going to be 24 feet wide. So I think from the corner of
12 the pole barn it's going to be still -- yeah, there you go.

13 MR. MOGEL: She's taking down every word we say. We
14 can't speak over one another --

15 MR. SHORTEN: I'm sorry.

16 MR. MOGEL: -- and we need to be clear.

17 MR. SHORTEN: What was your question? I'm sorry.

18 MR. MOGEL: Just that I was showing this item. This
19 is what you're referring to.

20 MR. SHORTEN: Yes, yeah.

21 BOARD MEMBER DAWKINS: Right.

22 MR. MOGEL: Just a point of clarification. You just
23 mentioned you weren't sure why the Building Department had
24 denied it. The Building Department, they're not commenting
25 on whether they think it's a good idea or a bad idea.

1 - RE: J. SHORTEN -

2 Simply, if it violates code they don't have the discretion
3 to approve a building permit so that's why you were
4 referred here for an appeal, to ask for an area variance.
5 That's the only reason.

6 MR. SHORTEN: All right. Yeah. No, understandable.
7 I just didn't want to -- you know, so far, everybody's,
8 like ...

9 I'm a contractor. I've been a contractor since 1983.
10 I've never done a job without a building permit, so ...

11 MR. MOGEL: Good for you.

12 CHAIRMAN MORDAS: Thanks.

13 MR. SHORTEN: You got to do it right if you're going
14 to do it, so ...

15 CHAIRMAN MORDAS: All right.

16 MR. SHORTEN: I'm about the only guy out there that
17 does it, though.

18 CHAIRMAN MORDAS: All right. Thank you.

19 MR. SHORTEN: Is that it?

20 CHAIRMAN MORDAS: Thank you very much.

21 BOARD MEMBER DAWKINS: What zone is this?

22 MS. PLATT: Town Center.

23 BOARD MEMBER FINDLEY: Town Center.

24 BOARD MEMBER DAWKINS: And it's because the pole barn
25 will be closer to --

1 - RE: J. SHORTEN -

2 MS. PLATT: The road than the primary structure.

3 BOARD MEMBER DAWKINS: And is that 209 that we're
4 talking about?

5 MS. PLATT: Yes.

6 BOARD MEMBER FINDLEY: And what about the side yard?

7 MR. MOGEL: Ten feet with an accessory structure.

8 CHAIRMAN MORDAS: Ten feet with an accessory
9 structure?

10 MR. MOGEL: Yes.

11 BOARD MEMBER DAWKINS: He's okay on that.

12 BOARD MEMBER FINDLEY: That's not in the book.

13 CHAIRMAN MORDAS: All right. And so where you're
14 looking to set this structure, you're going to be ten feet
15 off of that, at least ten feet off of that little tiny lot
16 that the cottage is on?

17 MR. SHORTEN: Actually, I think it's 37 or 57 feet
18 from that lot, yeah, off that property line. Yep.

19 I was trying to -- I wish I knew I could go closer
20 because I think Mary or -- I think Mary told me that I
21 could have got, like, 15 feet from the property. It's more
22 or less for my tenant because he's handicapped. He wants
23 to put a shop there. You know, he's going to be doing
24 cabinets and all that. It's just --

25 CHAIRMAN MORDAS: It's just ten foot.

1 - RE: J. SHORTEN -

2 MR. SHORTEN: Yeah. So I was trying to get, you know,
3 if I knew that, I would have kind of went a little closer
4 for him. But then again, that little shed's in the way,
5 too. So I don't want to -- I want to make it look nice. I
6 don't want to -- you know, I live there, too, so it's got
7 to look nice.

8 CHAIRMAN MORDAS: You've got a nice place.

9 MR. SHORTEN: Oh, it's gorgeous out there, yeah.
10 So ...

11 CHAIRMAN MORDAS: All right.

12 MR. SHORTEN: But ...

13 MR. MORDAS: All right. This matter is an area
14 variance. For purposes of SEQRA, it's a Type II so no
15 further evaluation for purposes of SEQRA is necessary.

16 CHAIRMAN MORDAS: All right. And in regards to
17 Municipal Law 239, the County has recommended local
18 determination so they're basically deferring to us, which
19 is good for you.

20 MR. SHORTEN: Good.

21 CHAIRMAN MORDAS: Do I have a motion to open the
22 public hearing or does the Board still have more questions
23 for Mr. Shorten?

24 BOARD MEMBER MORREALE: In your drawing it shows 35
25 feet from the cabin, the rental cabin?

1 - RE: J. SHORTEN -

2 MR. SHORTEN: Yes.

3 BOARD MEMBER MORREALE: I guess the ten feet has to be
4 a minimum from the property line of that?

5 BOARD MEMBER FINDLEY: That's what it kind of says.
6 But that's rear and side.

7 BOARD MEMBER MORREALE: Okay.

8 MR. SHORTEN: I don't know how that ever became a lot.
9 We talked about this at the meeting. Because the property
10 line is really like four, six feet from the back door of
11 that cabin. You can see, like -- when the girls went down
12 there they probably saw where the lawn was mowed. It's
13 really weird that that little lot was ever, like,
14 subdivided. You know, it's kind of -- it's 40. This lot
15 is only 40 feet wide that this cabin's on. It's 40 by 100.

16 BOARD MEMBER MORREALE: This distance, correct me if
17 I'm wrong, has to be at least ten feet.

18 MR. SHORTEN: Oh, it's more than that because --

19 BOARD MEMBER MORREALE: Okay.

20 MR. SHORTEN: -- there's only four feet of the
21 property right there.

22 BOARD MEMBER MORREALE: Oh, four feet from the cabin.

23 MR. SHORTEN: From that, four, six. Four, six. Don't
24 quote me on that. Actually, you could see it, like,
25 wherever it's mowed and stuff, yeah. And then the shed, in

1 - RE: J. SHORTEN -

2 all honesty, is, like, right on the property line. Half of
3 it is on the one and half of it is on the other. The same
4 guy owned it all.

5 BOARD MEMBER MORREALE: Sure.

6 MR. SHORTEN: And then he lived in the little when he
7 built the big one. Little by little, you know. So at one
8 time all them lots were one piece at one time. Locarelli
9 (phonetic) or something. It was a big subdivision. So ...

10 I just found out recently that half of the Dollar
11 General parking lot is mine. Yeah, I just -- I didn't know
12 that either. The whole entrance going in is part of my
13 five acre lot.

14 BOARD MEMBER DAWKINS: Get rent?

15 MR. SHORTEN: Well, I'm not getting rent. That was
16 another.

17 CHAIRMAN MORDAS: You've got reserve parking when you
18 want to go there; right?

19 MR. SHORTEN: Well, it's nice, all blacktopped and
20 everything. That whole thing is part of my five acre lot,
21 which I didn't know, you know. It was nice of them to put
22 a driveway in for me.

23 BOARD MEMBER MORREALE: Yes.

24 MR. SHORTEN: We got it for privacy. It's all about
25 privacy. That's why. You know, we're in the middle of

1 - RE: J. SHORTEN -

2 nowhere back there. It's gorgeous.

3 CHAIRMAN MORDAS: Beautiful.

4 MR. SHORTEN: But -- yeah, so I met the requirement on
5 that as far as the ten feet. Like I said, if the shed
6 wasn't there I probably would have pushed this a little
7 closer because it's actually all about Chris. It's going
8 to be his workshop. I'm sure he's not giving me a key to
9 it either, so ...

10 We have the big barn up in the back. My son's shop is
11 up here, so, but ...

12 CHAIRMAN MORDAS: All right. Is the Board ready to
13 open up the public hearing? Do I have a motion?

14 BOARD MEMBER DAWKINS: So moved.

15 BOARD MEMBER RAMPE: I'll second.

16 CHAIRMAN MORDAS: All in favor?

17 BOARD MEMBER RAMPE: Aye.

18 BOARD MEMBER DAWKINS: Aye.

19 BOARD MEMBER FINDLEY: Aye.

20 BOARD MEMBER MORREALE: Aye.

21 CHAIRMAN MORDAS: Aye.

22 (The motion was approved and carried.)

23 CHAIRMAN MORDAS: Kyra, were the mailers done to your
24 satisfaction?

25 MS. PLATT: Yes.

1 - RE: J. SHORTEN -

2 CHAIRMAN MORDAS: And our local newspapers of our
3 choice notified?

4 MS. PLATT: Yes.

5 CHAIRMAN MORDAS: All right.

6 The public hearing is now open. Anybody from the
7 public would like to comment on Mr. Shorten's project here?

8 MR. DEMARINO: Sure.

9 CHAIRMAN MORDAS: Please come on up. State your name
10 and where you live.

11 Please, Mr. Shorten, have a seat.

12 MR. DEMARINO: Good evening, everybody. My name is
13 Anthony. I'm his neighbor.

14 I'm just here to support him. You know, I don't --
15 you know, I got the letter that you guys sent out. I don't
16 see anything wrong in him having that barn. And I'm just
17 here because he's my neighbor. I've met his boys and his
18 wife and they've been great neighbors. And I'm just here
19 to, you know, say that you guys should, I pray that you
20 guys give him the variance. That's all. That's all I'm
21 here for.

22 BOARD MEMBER RAMPE: Thank you.

23 CHAIRMAN MORDAS: Thank you, sir.

24 Any further questions from the board?

25 (No verbal response.)

1 - RE: J. SHORTEN -

2 CHAIRMAN MORDAS: Anybody else from the public?

3 (No verbal response.)

4 CHAIRMAN MORDAS: Okay. Do I have a motion to close
5 the public hearing?

6 BOARD MEMBER RAMPE: I'll make a motion.

7 BOARD MEMBER FINDLEY: I'll second it.

8 CHAIRMAN MORDAS: All in favor?

9 BOARD MEMBER RAMPE: Aye.

10 BOARD MEMBER DAWKINS: Aye.

11 BOARD MEMBER FINDLEY: Aye.

12 BOARD MEMBER MORREALE: Aye.

13 CHAIRMAN MORDAS: Aye.

14 (The motion was approved and carried.)

15 CHAIRMAN MORDAS: All right. Before we vote on
16 Mr. Shorten's request for relief from 199-13-c-2, no
17 accessory structure to be located closer to the street than
18 the street wall of the principal structure, I need to read
19 the criteria for issuing an area variance.

20 In making its determination the Zoning Board shall
21 take into consideration the benefit to the applicant if the
22 variance is warranted as weighed against the detriment to
23 the health, safety and welfare of the neighborhood or
24 community by such grant.

25 In making such determination the Board shall also

1 - RE: J. SHORTEN -

2 consider: A: Whether an undesirable change will be
3 produced in the character of the neighborhood or a
4 detriment to nearby properties will be created by the
5 granting of the area variance.

6 Georgia.

7 BOARD MEMBER RAMPE: No.

8 CHAIRMAN MORDAS: Cathy

9 BOARD MEMBER DAWKINS: No.

10 CHAIRMAN MORDAS: Kent.

11 BOARD MEMBER FINDLEY: No.

12 CHAIRMAN MORDAS: Matthew.

13 BOARD MEMBER MORREALE: No.

14 CHAIRMAN MORDAS: No.

15 Next, whether the benefit sought by the applicant can
16 be achieved by some method feasible for the applicant to
17 pursue other than an area variance.

18 Matthew.

19 BOARD MEMBER MORREALE: No.

20 CHAIRMAN MORDAS: Kent.

21 BOARD MEMBER FINDLEY: No.

22 CHAIRMAN MORDAS: Cathy.

23 BOARD MEMBER DAWKINS: Yes.

24 CHAIRMAN MORDAS: Georgia.

25 BOARD MEMBER RAMPE: Yes.

1 - RE: J. SHORTEN -

2 CHAIRMAN MORDAS: Yes.

3 Next, whether the requested area variance is
4 substantial.

5 I'll say yes.

6 Georgia.

7 BOARD MEMBER RAMPE: I think I'll say no.

8 BOARD MEMBER DAWKINS: Yes.

9 BOARD MEMBER FINDLEY: Yes.

10 CHAIRMAN MORDAS: Matthew.

11 BOARD MEMBER MORREALE: Yes.

12 CHAIRMAN MORDAS: Whether the proposed variance will
13 have an adverse affect or impact on the physical or
14 environmental conditions in the neighborhood or district.

15 Georgia.

16 BOARD MEMBER RAMPE: No.

17 CHAIRMAN MORDAS: Cathy.

18 BOARD MEMBER DAWKINS: No.

19 CHAIRMAN MORDAS: Kent.

20 BOARD MEMBER FINDLEY: No.

21 CHAIRMAN MORDAS: Matt.

22 BOARD MEMBER MORREALE: No.

23 CHAIRMAN MORDAS: No.

24 CHAIRMAN MORDAS: Whether the alleged difficulty was
25 self-created, which consideration shall be relevant to the

1 - RE: J. SHORTEN -

2 decision of the Zoning Board but shall not necessarily
3 preclude the granting of the area variance.

4 I'll say yes.

5 Georgia.

6 BOARD MEMBER RAMPE: Yes.

7 CHAIRMAN MORDAS: Cathy.

8 BOARD MEMBER DAWKINS: Yes.

9 CHAIRMAN MORDAS: Kent.

10 BOARD MEMBER FINDLEY: Yes.

11 CHAIRMAN MORDAS: Matthew.

12 BOARD MEMBER MORREALE: Yes.

13 CHAIRMAN MORDAS: All right, okay.

14 So let's take a vote on --

15 BOARD MEMBER FINDLEY: Are we going to word this in a
16 particular way?

17 CHAIRMAN MORDAS: I'd like to hear what sort of
18 stipulations the Board would like to apply to this vote.

19 BOARD MEMBER FINDLEY: Just approximately as drawn.

20 CHAIRMAN MORDAS: Okay.

21 Matthew, do you have anything to add?

22 BOARD MEMBER MORREALE: No.

23 CHAIRMAN MORDAS: Cathy?

24 BOARD MEMBER DAWKINS: No.

25 CHAIRMAN MORDAS: Georgia.

1 - RE: J. SHORTEN -

2 BOARD MEMBER RAMPE: No.

3 CHAIRMAN MORDAS: Okay.

4 BOARD MEMBER RAMPE: It's a one-story pole barn;
5 right?

6 BOARD MEMBER DAWKINS: That's a good point, Georgia.
7 Height.

8 MR. SHORTEN: Height. Yeah. I even put my materials
9 in there. It's a one-story, yes.

10 BOARD MEMBER DAWKINS: Will it have water?

11 MR. SHORTEN: Will it have water? Only with a hose.

12 BOARD MEMBER DAWKINS: So no septic hookup, anything
13 like that.

14 MR. SHORTEN: No, no.

15 CHAIRMAN MORDAS: All right.

16 BOARD MEMBER DAWKINS: And it's not to be used as a
17 dwelling.

18 BOARD MEMBER FINDLEY: It's an accessory structure.

19 BOARD MEMBER DAWKINS: Right.

20 CHAIRMAN MORDAS: Okay.

21 CHAIRMAN MORDAS: All right. I'd like to have a
22 motion, make a motion to ...

23 BOARD MEMBER DAWKINS: I'll make a motion that we
24 approve the variance as requested with the stipulation that
25 it be a one-story building with no water.

1 - RE: J. SHORTEN -

2 CHAIRMAN MORDAS: I'm sorry. Matthew, please repeat
3 yourself.

4 BOARD MEMBER MORREALE: I vote in favor of the
5 variance.

6 CHAIRMAN MORDAS: Kent.

7 BOARD MEMBER FINDLEY: Didn't we just all vote aye?

8 BOARD MEMBER RAMPE: That was to approve the motion.

9 MR. MOGEL: That's okay. Say it again.

10 CHAIRMAN MORDAS: It's America. We always vote twice.

11 MR. MOGEL: All in favor.

12 CHAIRMAN MORDAS: All in favor?

13 BOARD MEMBER RAMPE: Aye.

14 BOARD MEMBER DAWKINS: Aye.

15 BOARD MEMBER FINDLEY: Aye.

16 BOARD MEMBER MORREALE: Aye.

17 CHAIRMAN MORDAS: Aye.

18 (The motion was approved and carried.)

19 MR. MOGEL: Nays.

20 CHAIRMAN MORDAS: Any nays?

21 (No verbal response.)

22 CHAIRMAN MORDAS: No. Okay.

23 Mr. Shorten, good luck with your project.

24 MR. SHORTEN: Thank you very much. I appreciate it.

25 CHAIRMAN MORDAS: Thanks for your presentation.

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- RE: J. SHORTEN -
(Time noted: 7:22 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 John Shorten, 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: April 24, 2018

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

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Michael and Kelly Kavanaugh
Area Variance
Tax Map Section 61; Block 4; Lot 17
Neighborhood Residential Zone

----- X

Town Hall
Town of Mamakating
March 22, 2018
7:22 P.M.

ZONING BOARD MEMBERS :

- MATTHEW MORDAS, Chairman
- GEORGIA RAMPE, Board Member
- CATHY DAWKINS, Board Member
- KENT FINDLEY, Board Member
- MATTHEW MORREALE, Board Member
- STEVEN MOGEL, ESQ., Attorney
- KYRA PLATT, Building Department

Also Present: Michael Kavanaugh, Applicant

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

Reported by: Rosemary A. Meyer

1 - RE: M. & K. KAVANAUGH -

2 CHAIRMAN MORDAS: All right. Next on the agenda,
3 Mr. Kavanaugh.

4 MR. KAVANAUGH: Thank you. Mike Kavanaugh of Wolf
5 Lake.

6 I was denied for two reasons. One was for the lot
7 depth and the second was the setback to the road side of
8 the property.

9 The lot itself is a quarter acre lot up at Wolf Lake.
10 All the lots up there are pretty much nonconforming. It
11 falls under Section 199-54 of the code for nonconforming
12 lots in previously approved subdivisions.

13 With the depth itself, I'm not sure if there's
14 anything I can do there, but the code section kind of
15 contemplates that. The square footage is within the
16 requirements of that area and everything else.

17 With the setback, given the Wolf Lake setbacks and the
18 Town setbacks, if I had to comply with either one I could
19 make the house fit. When you overlay the two on top of
20 each other, it becomes difficult. Wolf Lake, in keeping in
21 the character of the neighborhood, would like the house,
22 they would like it back 50 feet from the shoreline. The
23 house itself is about 12 feet over that. So they had asked
24 that I move the house back six feet, coming six feet over
25 the Town line and six feet over the Wolf Lake line,

1 - RE: M. & K. KAVANAUGH -

2 splitting the difference and trying to maintain that
3 character. So I would request the variance.

4 BOARD MEMBER DAWKINS: And your side yard setbacks
5 are sufficient.

6 MR. KAVANAUGH: Yes.

7 CHAIRMAN MORDAS: All right. So you've whittled it
8 down to one?

9 BOARD MEMBER DAWKINS: It's two.

10 MR. KAVANAUGH: Two.

11 CHAIRMAN MORDAS: Two. Still two.

12 MR. KAVANAUGH: Yes. And it's for six and a half feet
13 and that's only a few sections. It's like the front entry
14 which is basically going over, and a few points in the
15 house. It's not the entire house.

16 BOARD MEMBER DAWKINS: So is it where this green line
17 crosses the corner --

18 MR. KAVANAUGH: Correct.

19 BOARD MEMBER DAWKINS: -- for proposed structure where
20 your --

21 MR. KAVANAUGH: Yes. So this is an overhang on the
22 house for an entry. But it's -- right, it's those points
23 that go slightly over.

24 BOARD MEMBER MORREALE: At our last meeting we spoke
25 about the shed and how it could be made it more conforming?

1 - RE: M. & K. KAVANAUGH -

2 Is that ...

3 MR. KAVANAUGH: Yes. So I'm going to not have the
4 shed. If that is sticking out more so than what the
5 variance is, I would move the shed back. That should not
6 be a problem.

7 BOARD MEMBER DAWKINS: So Wolf Lake has a requirement
8 for the distance between the house and the lakeshore, that
9 high water or whatever.

10 MR. KAVANAUGH: Yes.

11 BOARD MEMBER DAWKINS: Do they have, in their code, a
12 lot depth requirement?

13 MR. KAVANAUGH: No.

14 BOARD MEMBER FINDLEY: What's the lot depth? This is
15 110 feet.

16 BOARD MEMBER DAWKINS: Yes, but this is only --

17 MR. KAVANAUGH: Well, it's the average lot depth, so
18 it's 88 feet.

19 BOARD MEMBER FINDLEY: So why do they need a variance
20 for that?

21 BOARD MEMBER DAWKINS: Because they take the average.

22 BOARD MEMBER FINDLEY: Yes. But if it's a
23 nonconforming lot you're --

24 MR. KAVANAUGH: Right. They don't mention a lot depth
25 in there.

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER DAWKINS: What does the nonconforming say
3 over there?

4 BOARD MEMBER FINDLEY: It says for lots with --

5 CHAIRMAN MORDAS: I don't know if it says anything
6 about lot depth in the nonconforming table.

7 MR. KAVANAUGH: It does not.

8 BOARD MEMBER FINDLEY: Well --

9 CHAIRMAN MORDAS: You've got to go to the bulk table.

10 BOARD MEMBER FINDLEY: -- according to this, I guess
11 you would need a lot depth, a minimum of 50 feet because
12 that's what the table shows. But with a lot depth of 80 to
13 99, minimum side yard is 12, bulk yard is 30.

14 BOARD MEMBER DAWKINS: And what are the side yards?

15 BOARD MEMBER FINDLEY: We're well over that, I
16 believe.

17 BOARD MEMBER DAWKINS: Ten.

18 BOARD MEMBER FINDLEY: Ten plus whatever this distance
19 is.

20 BOARD MEMBER DAWKINS: And other one is like -- what
21 is this little thing here?

22 MR. KAVANAUGH: That's a shed.

23 BOARD MEMBER FINDLEY: Which he's saying he's going to
24 move it.

25 BOARD MEMBER RAMPE: The side lot should be --

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER DAWKINS: Okay. So it's like 30. It's
3 like 30. Okay. So you could almost say that's he's not in
4 noncompliance because of that.

5 BOARD MEMBER FINDLEY: Right. That's what I'm saying.
6 The only thing you have is a minimum setback. But I'm not
7 even sure --

8 BOARD MEMBER RAMPE: If that's really true.

9 BOARD MEMBER FINDLEY: -- where that shows in the
10 nonconforming lot.

11 Maximum development coverage of the lot shall not be
12 35 percent.

13 BOARD MEMBER DAWKINS: Are you looking --

14 MR. KAVANAUGH: Fourteen point something.

15 MR. MOGEL: 199.54?

16 MR. KAVANAUGH: I have that in my Wolf Lake approval.
17 Wolf Lake doesn't allow anything over 15 percent.

18 BOARD MEMBER FINDLEY: Well, it says maximum coverage
19 here, 14.98.

20 MR. KAVANAUGH: Yeah, you got to ...

21 BOARD MEMBER DAWKINS: Go show him.

22 BOARD MEMBER FINDLEY: If you're nonconforming, it
23 doesn't list the front yard setback, does it? It only has
24 your side yard, bulk yards.

25 CHAIRMAN MORDAS: But it doesn't have lot depth, does

1 - RE: M. & K. KAVANAUGH -

2 it?

3 BOARD MEMBER FINDLEY: Well, it implies because
4 your --

5 MR. KAVANAUGH: It assumes that as part of the
6 calculation --

7 BOARD MEMBER FINDLEY: Right.

8 MR. KAVANAUGH: -- that you don't have it.

9 BOARD MEMBER FINDLEY: Fifty to seventy-nine, there's
10 no minimum lot depth.

11 CHAIRMAN MORDAS: But it's on the bulk table, I think.

12 BOARD MEMBER FINDLEY: But when you --

13 BOARD MEMBER DAWKINS: The bulk table doesn't apply to
14 him.

15 BOARD MEMBER FINDLEY: The bulk table wouldn't apply.

16 BOARD MEMBER DAWKINS: Because it's nonconforming.

17 CHAIRMAN MORDAS: Well, it applies everywhere where
18 the nonconforming table doesn't apply; right?

19 BOARD MEMBER FINDLEY: I'm not sure I would interpret
20 it that way.

21 BOARD MEMBER DAWKINS: Okay. So we're probably safer
22 to give him a variance.

23 CHAIRMAN MORDAS: Okay. It's Neighborhood
24 Residential?

25 MS. PLATT: Yes.

1 - RE: M. & K. KAVANAUGH -

2 CHAIRMAN MORDAS: Thanks.

3 MR. MOGEL: Notwithstanding the limitations proposed
4 by any other provision of this chapter.

5 CHAIRMAN MORDAS: Okay.

6 MR. MOGEL: Minimum lot width is 50. All other bulk
7 requirements of that district are complied with.

8 BOARD MEMBER DAWKINS: Okay. So we'll address the lot
9 depth just to be on the safe side.

10 MR. MOGEL: Seems to me.

11 CHAIRMAN MORDAS: Seems to me.

12 MR. MOGEL: It's not addressed in the table.

13 My interpretation would be if it's not addressed in
14 that specific category then compliance has to be in
15 accordance with the bulk table. If the bulk table has a
16 depth requirement and it's not specified in that section
17 then you have to go according to the bulk table.

18 BOARD MEMBER FINDLEY: We would consider this a --

19 BOARD MEMBER DAWKINS: If you take the average.

20 BOARD MEMBER FINDLEY: Where do you get the average
21 from?

22 BOARD MEMBER DAWKINS: What's the property width?

23 BOARD MEMBER RAMPE: It changes.

24 MR. KAVANAUGH: Yeah. It's 110 here and like 111.

25 BOARD MEMBER MORREALE: If I'm reading this correct,

1 - RE: M. & K. KAVANAUGH -

2 135.

3 MR. KAVANAUGH: 135.

4 BOARD MEMBER FINDLEY: And then also, we have front
5 yard has to be 30 percent of the average lot depth.

6 MR. KAVANAUGH: Right. That's how they calculated the
7 25.

8 BOARD MEMBER FINDLEY: That's what you used?

9 MR. KAVANAUGH: Yes.

10 BOARD MEMBER FINDLEY: Okay.

11 And the rear yard has to be 20 percent of the average
12 lot depth, and you've got that; right?

13 MR. KAVANAUGH: Right.

14 BOARD MEMBER FINDLEY: Do you have that calculator?
15 Why do these numbers get smaller and smaller?

16 MR. KAVANAUGH: Why do I keep getting grayer and
17 grayer?

18 BOARD MEMBER FINDLEY: Thirty percent. So I guess
19 you're saying the average ...

20 MR. MOGEL: Do you have a site plan over there?

21 BOARD MEMBER DAWKINS: Yes.

22 MR. MOGEL: Also, the surveyor has given me a handy
23 dandy --

24 BOARD MEMBER DAWKINS: They're on the --

25 MR. MOGEL: This?

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER FINDLEY: No. There's a little one.

3 MR. MOGEL: Okay.

4 MS. PLATT: Do you need a large one?

5 MR. MOGEL: We can go to the larger version.

6 BOARD MEMBER FINDLEY: Yes, I'm going to a larger
7 version.

8 MR. MOGEL: All right. Very good.

9 BOARD MEMBER RAMPE: Just get bifocals.

10 BOARD MEMBER FINDLEY: It would be admitting I'm old.

11 BOARD MEMBER RAMPE: Buy some reading glasses.

12 MR. KAVANAUGH: Matt, there should be a table in this
13 one.

14 BOARD MEMBER DAWKINS: The front yard setback is 25
15 feet.

16 BOARD MEMBER RAMPE: Right.

17 BOARD MEMBER DAWKINS: So it's going to be 18 and a
18 half.

19 BOARD MEMBER RAMPE: Right.

20 BOARD MEMBER DAWKINS: So he's going to need a
21 variance for --

22 BOARD MEMBER RAMPE: Eighteen.

23 MR. MOGEL: Six and a half.

24 MR. KAVANAUGH: Right.

25 BOARD MEMBER RAMPE: Right.

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER DAWKINS: That's six and a half. And
3 then the 87 foot lot depth, we need a variance.

4 CHAIRMAN MORDAS: So he needs 62.27 to comply with the
5 bulk table.

6 BOARD MEMBER DAWKINS: That's what I was thinking.
7 The depth, lot depth.

8 BOARD MEMBER FINDLEY: To comply with the bulk table.

9 BOARD MEMBER DAWKINS: Yes.

10 BOARD MEMBER FINDLEY: But we have that.

11 Sixty-two what?

12 MR. MOGEL: .27

13 BOARD MEMBER DAWKINS: We need 62 to get the lot
14 depth.

15 BOARD MEMBER FINDLEY: His shortest lot depth is
16 62.36.

17 BOARD MEMBER DAWKINS: Right. But he needs --

18 MR. KAVANAUGH: That's the average.

19 BOARD MEMBER FINDLEY: Oh, you need 110.

20 MR. KAVANAUGH: Yes.

21 So the average lot depth is almost 88, so it's just a
22 difference.

23 BOARD MEMBER FINDLEY: Okay.

24 BOARD MEMBER DAWKINS: (Inaudible comment.)

25 BOARD MEMBER FINDLEY: No, no. Because it has it in

1 - RE: M. & K. KAVANAUGH -

2 here what the rear yard has to be, what the front yard has
3 to be based on conforming all these things. So therefore,
4 the lot depth does not matter.

5 CHAIRMAN MORDAS: Pardon?

6 BOARD MEMBER FINDLEY: I'm saying is in this
7 provision, since it's saying what the front yard has to be,
8 it's saying what the rear yard has to be, it's nullifying
9 the lot depth --

10 MR. MOGEL: That's not so.

11 BOARD MEMBER FINDLEY: -- in the bulk tables.

12 MR. MOGEL: That's not so. It's a basic notion of
13 statutory interpretation. If you're setting forth
14 exceptions to the rule and you're enunciating what those
15 exceptions are, if you are silent as to something then it
16 doesn't negate the fact that there's a requirement --

17 BOARD MEMBER FINDLEY: I'm saying --

18 MR. MOGEL: -- elsewhere in the code.

19 BOARD MEMBER FINDLEY: I disagree it's not silent,
20 though. It's talking front yard, back yard, side yard,
21 total yards and you have to be 8,000 square feet. So I
22 don't believe that it's silent.

23 MR. MOGEL: Where is it talking about lot depth?

24 BOARD MEMBER FINDLEY: Simply by the summation of the
25 front yard --

1 - RE: M. & K. KAVANAUGH -

2 MR. MOGEL: Sorry. Those are separate criteria.

3 BOARD MEMBER DAWKINS: Okay.

4 BOARD MEMBER FINDLEY: Wait, wait. I'm not done yet.

5 BOARD MEMBER MORREALE: What do you need?

6 BOARD MEMBER FINDLEY: I just want to use your
7 calculator for a second.

8 CHAIRMAN MORDAS: What do you need, Ken? Oh, a
9 calculator.

10 BOARD MEMBER FINDLEY: Even if you had a minimum width
11 you still wouldn't meet 8,000 square feet. I don't believe
12 it's silent. But we can make a proposal and we'll vote.

13 BOARD MEMBER DAWKINS: You should go to the
14 Comprehensive Plan Committee meetings and voice that
15 concern.

16 BOARD MEMBER FINDLEY: It's not. It discusses it.

17 BOARD MEMBER DAWKINS: Okay.

18 Okay. Can I make a motion that we open the public
19 hearing?

20 CHAIRMAN MORDAS: Yes, you may.

21 BOARD MEMBER RAMPE: I'll second it.

22 CHAIRMAN MORDAS: All in favor?

23 BOARD MEMBER RAMPE: Aye.

24 BOARD MEMBER DAWKINS: Aye.

25 BOARD MEMBER FINDLEY: Aye.

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER MORREALE: Aye.

3 CHAIRMAN MORDAS: Aye.

4 (The motion was agreed and carried.)

5 MR. KAVANAUGH: Thank you.

6 CHAIRMAN MORDAS: Thanks, Mr. Kavanaugh.

7 All right. Has Mr. Kavanaugh met the criteria with
8 the mailings and the posted notifications in our newspaper?

9 MS. PLATT: Yes.

10 CHAIRMAN MORDAS: Thank you.

11 MR. MOGEL: Was a 239 review required?

12 CHAIRMAN MORDAS: Yes, I believe so. It is in
13 proximity to a waterbody.

14 MS. PLATT: Does not meet the criteria for County
15 referral required by Section 239-i(3.3) of the General
16 Municipal Law, therefore, it was not necessary for the Town
17 to refer the project to the Division of Planning for
18 review.

19 MR. MOGEL: Very good.

20 CHAIRMAN MORDAS: All right.

21 MR. MOGEL: This is an area variance so it is a Type
22 II under SEQRA. No further evaluation is necessary under
23 that statute.

24 CHAIRMAN MORDAS: Okay. Anybody from the public would
25 like to speak on Mr. Kavanaugh's proposal here?

1 - RE: M. & K. KAVANAUGH -

2 (No verbal response.)

3 CHAIRMAN MORDAS: Okay. Motion to close the public
4 hearing unless the Board has any more questions.

5 BOARD MEMBER DAWKINS: So moved.

6 CHAIRMAN MORDAS: I'll second.

7 All in favor?

8 BOARD MEMBER RAMPE: Aye.

9 BOARD MEMBER DAWKINS: Aye.

10 BOARD MEMBER FINDLEY: Aye.

11 BOARD MEMBER MORREALE: Aye.

12 CHAIRMAN MORDAS: Aye.

13 (The motion was approved and carried.)

14 CHAIRMAN MORDAS: All right. Okay. Let's see.

15 Which variance request would you like to vote on
16 first?

17 BOARD MEMBER DAWKINS: Well, let's take them in the
18 order they gave them to us. The setback.

19 CHAIRMAN MORDAS: All right. Do I have a motion to
20 proceed to a vote?

21 BOARD MEMBER FINDLEY: This is a new one.

22 BOARD MEMBER DAWKINS: But wait. Just a minute,
23 before we do that. We had said 6.5, but is it 6.5 or 7.5?

24 CHAIRMAN MORDAS: Get the calculator.

25 BOARD MEMBER DAWKINS: It's common math.

1 - RE: M. & K. KAVANAUGH -

2 MR. KAVANAUGH: It should be 6.5.

3 BOARD MEMBER RAMPE: Wait a minute. And the other
4 thing is where is the front yard.

5 CHAIRMAN MORDAS: Front yard is on the street side,
6 Canal Road side.

7 BOARD MEMBER RAMPE: But we've often ...

8 BOARD MEMBER DAWKINS: No, we haven't.

9 CHAIRMAN MORDAS: That's the code.

10 BOARD MEMBER DAWKINS: No, no, we don't do that
11 anymore.

12 BOARD MEMBER RAMPE: Oh, okay.

13 CHAIRMAN MORDAS: We never did that.

14 BOARD MEMBER DAWKINS: But when there's a lake
15 district we might be doing it.

16 BOARD MEMBER RAMPE: Well, this is a lake ...

17 BOARD MEMBER DAWKINS: So six and a half feet. 6.5
18 feet variance is being requested. I'll make a -- what is
19 it again?

20 CHAIRMAN MORDAS: We're going to make a motion to
21 proceed to a vote.

22 BOARD MEMBER DAWKINS: Oh, there you go.

23 CHAIRMAN MORDAS: Do I have a motion?

24 BOARD MEMBER MORREALE: Motion.

25 CHAIRMAN MORDAS: Second?

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER DAWKINS: Motion.

3 CHAIRMAN MORDAS: All in favor?

4 BOARD MEMBER RAMPE: Aye.

5 BOARD MEMBER DAWKINS: Aye.

6 BOARD MEMBER FINDLEY: Aye.

7 BOARD MEMBER MORREALE: Aye.

8 CHAIRMAN MORDAS: Aye.

9 (The motion was approved and carried.)

10 CHAIRMAN MORDAS: All right. All right. Before we
11 proceed I have to read the criteria. Okay. I know it
12 sounds like boilerplate, but I must go forward.

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

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

23 I will say no.

24 Georgia.

25 BOARD MEMBER RAMPE: No.

1 - RE: M. & K. KAVANAUGH -

2 CHAIRMAN MORDAS: Cathy.

3 BOARD MEMBER DAWKINS: No.

4 CHAIRMAN MORDAS: Kent.

5 BOARD MEMBER FINDLEY: No.

6 CHAIRMAN MORDAS: Matthew.

7 BOARD MEMBER MORREALE: No.

8 CHAIRMAN MORDAS: All right.

9 Whether the benefit sought by the applicant can be
10 achieved by some method feasible for the applicant to
11 pursue other than an area variance.

12 Matt.

13 BOARD MEMBER MORREALE: No.

14 CHAIRMAN MORDAS: Kent.

15 BOARD MEMBER FINDLEY: No.

16 CHAIRMAN MORDAS: Cathy.

17 BOARD MEMBER DAWKINS: Yes.

18 CHAIRMAN MORDAS: Georgia.

19 BOARD MEMBER RAMPE: Yes.

20 CHAIRMAN MORDAS: I'll say no.

21 Whether the requested area variance is substantial.

22 I'll say yes.

23 Georgia.

24 BOARD MEMBER RAMPE: Yes.

25 CHAIRMAN MORDAS: Cathy.

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER DAWKINS: Yes.

3 CHAIRMAN MORDAS: Kent.

4 BOARD MEMBER FINDLEY: Yes.

5 CHAIRMAN MORDAS: Matthew.

6 BOARD MEMBER MORREALE: No.

7 CHAIRMAN MORDAS: All right. Whether the proposed
8 variance will have an adverse effect or impact on the
9 physical or environmental conditions in the neighborhood or
10 district.

11 Matthew.

12 BOARD MEMBER MORREALE: No.

13 CHAIRMAN MORDAS: Kent.

14 BOARD MEMBER FINDLEY: No.

15 CHAIRMAN MORDAS: Cathy.

16 BOARD MEMBER DAWKINS: No.

17 CHAIRMAN MORDAS: Georgia.

18 BOARD MEMBER RAMPE: No.

19 CHAIRMAN MORDAS: No.

20 Whether the alleged difficulty was self-created which
21 consideration shall be relevant to the decision of the
22 Zoning Board but shall not necessarily preclude the
23 granting of the area variance.

24 Matt.

25 BOARD MEMBER MORREALE: Yes.

1 - RE: M. & K. KAVANAUGH -

2 CHAIRMAN MORDAS: Kent.

3 BOARD MEMBER FINDLEY: Yes.

4 CHAIRMAN MORDAS: Cathy.

5 BOARD MEMBER DAWKINS: Yes.

6 CHAIRMAN MORDAS: Georgia.

7 BOARD MEMBER RAMPE: Yes.

8 CHAIRMAN MORDAS: Yes.

9 All right. Let's go to the vote.

10 BOARD MEMBER FINDLEY: This is only for the front
11 yard.

12 BOARD MEMBER DAWKINS: Front setback.

13 CHAIRMAN MORDAS: That's right.

14 So in regards to Mr. Kavanaugh's request of relief
15 from Town Code 199-54-c, front yard setback, he is looking
16 for relief requiring 62.27 feet --

17 BOARD MEMBER DAWKINS: No, no, no, no.

18 MR. MOGEL: 6.5.

19 BOARD MEMBER DAWKINS: 6.5 feet on the setback.

20 MR. MOGEL: 6.5, front yard variance, that's what
21 we're doing.

22 BOARD MEMBER DAWKINS: Yes.

23 CHAIRMAN MORDAS: Front yard.

24 MR. MOGEL: Front yard variance, 6.5.

25 CHAIRMAN MORDAS: My apologies. Okay. Then let's

1 - RE: M. & K. KAVANAUGH -

2 step back.

3 The 6.5 is from the Neighborhood Residential bulk
4 table requirements; right?

5 BOARD MEMBER FINDLEY: I believe it's coming off of
6 the --

7 MR. MOGEL: Nonconforming.

8 BOARD MEMBER FINDLEY: -- nonconforming, 199-54.

9 CHAIRMAN MORDAS: All right. Okay.

10 BOARD MEMBER FINDLEY: Yes?

11 CHAIRMAN MORDAS: I think I'm on the verge of
12 something here. Yes. All right, the front yard.

13 199-54-c, minimum front yard requirement,
14 Mr. Kavanaugh is looking for relief of 6.5 feet from the 25
15 foot requirement.

16 How does the Board vote?

17 Cathy.

18 BOARD MEMBER DAWKINS: Yes.

19 CHAIRMAN MORDAS: Georgia.

20 BOARD MEMBER RAMPE: Yes.

21 CHAIRMAN MORDAS: Kent.

22 BOARD MEMBER FINDLEY: Vote yes.

23 CHAIRMAN MORDAS: Matt.

24 BOARD MEMBER MORREALE: Yes.

25 CHAIRMAN MORDAS: And I'll vote yes, too, on that.

1 - RE: M. & K. KAVANAUGH -

2 Okay. Motion to proceed to the next vote.

3 BOARD MEMBER RAMPE: I'll make a motion.

4 BOARD MEMBER DAWKINS: I'll second it.

5 CHAIRMAN MORDAS: All in favor?

6 BOARD MEMBER RAMPE: Aye.

7 BOARD MEMBER DAWKINS: Aye.

8 BOARD MEMBER FINDLEY: Nay

9 BOARD MEMBER MORREALE: Aye.

10 CHAIRMAN MORDAS: Aye.

11 CHAIRMAN MORDAS: No?

12 BOARD MEMBER FINDLEY: I want to discuss this one one
13 more time.

14 CHAIRMAN MORDAS: Okay, go ahead, Kent.

15 BOARD MEMBER FINDLEY: The only reason I want to
16 discuss is because I don't believe it's warranted because
17 the way this thing is structured, it's saying, look, as
18 long as you have 8,000 square feet your lot could be 150
19 feet wide, 149 feet wide. So 149 feet wide means you would
20 only have something like a 70 some change depth lot. It's
21 allowing it with this table. If we're giving a building
22 permit or variances under this, that minimum lot depth is
23 not a requirement.

24 MR. MOGEL: Then why is it not specifically
25 referencing minimum lot depth?

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER FINDLEY: Because nothing is conforming
3 so they're saying look, you have to meet a minimum of 50
4 feet wide. You have to have 8,000 square feet. Even at 50
5 feet wide, to get to 8,000 square feet you would be, what?
6 You would be -- 50 divided by 8,000 is what?

7 MR. MOGEL: Respectfully, I think you're reading far
8 too deeply into what the crafters of this particular law
9 were thinking. If they wanted to reference some
10 specification with regard to minimum lot depth that varied
11 from what was already on the preexisting table they would
12 have referenced it specifically.

13 Now, there may be a logical disconnect here, which is
14 what you're pointing out. You would not be the first one
15 to point out logical disconnects in statutes.

16 BOARD MEMBER DAWKINS: And one point would be that if
17 there's enough dispute to have this discussion here I don't
18 want to leave the Applicant hanging and have him have to
19 come back.

20 MR. MOGEL: Correct.

21 BOARD MEMBER DAWKINS: So I would address it.

22 MR. MOGEL: It's, again, a principal of statutory
23 construction is you must give weight to what is there, read
24 it as strictly as it is written. So you're supposed to go
25 according to the words that are there rather than interpret

1 - RE: M. & K. KAVANAUGH -

2 it to come with what may be a more logical conclusion.

3 CHAIRMAN MORDAS: All right.

4 BOARD MEMBER DAWKINS: Do we have to have another
5 motion to move to vote?

6 MR. MOGEL: No. He already said --

7 CHAIRMAN MORDAS: He said no, so let's just go with
8 it.

9 MR. MOGEL: Correct

10 BOARD MEMBER DAWKINS: Okay.

11 BOARD MEMBER FINDLEY: I want to vote last on this
12 one.

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

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

23 Kent.

24 BOARD MEMBER FINDLEY: No.

25 CHAIRMAN MORDAS: Matt.

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER MORREALE: No.

3 CHAIRMAN MORDAS: Georgia.

4 BOARD MEMBER RAMPE: No.

5 CHAIRMAN MORDAS: Cathy.

6 BOARD MEMBER DAWKINS: No.

7 CHAIRMAN MORDAS: What did you say? Yes?

8 BOARD MEMBER DAWKINS: I said no.

9 CHAIRMAN MORDAS: No.

10 BOARD MEMBER DAWKINS: But I was tempted to say yes.

11 CHAIRMAN MORDAS: Whether the benefit sought by the
12 applicant can be achieved by some method feasible for the
13 applicant to pursue other than an area variance.

14 I would say no.

15 CHAIRMAN MORDAS: Kent.

16 BOARD MEMBER FINDLEY: I'd say yes. He could go for
17 an interpretation.

18 BOARD MEMBER DAWKINS: Okay.

19 I'm going to say no.

20 CHAIRMAN MORDAS: Georgia.

21 BOARD MEMBER RAMPE: No.

22 CHAIRMAN MORDAS: Matt.

23 BOARD MEMBER MORREALE: No.

24 CHAIRMAN MORDAS: Whether the requested area variance
25 is substantial.

1 - RE: M. & K. KAVANAUGH -

2 I would say yes.

3 CHAIRMAN MORDAS: Georgia.

4 BOARD MEMBER RAMPE: Yes.

5 CHAIRMAN MORDAS: Cathy.

6 BOARD MEMBER DAWKINS: Yes.

7 CHAIRMAN MORDAS: Kent.

8 BOARD MEMBER FINDLEY: Yes.

9 CHAIRMAN MORDAS: Matt.

10 BOARD MEMBER MORREALE: Yes.

11 CHAIRMAN MORDAS: Whether the proposed variance will
12 have an adverse effect or impact on the physical or
13 environmental conditions of the neighborhood or district.

14 Matt.

15 BOARD MEMBER MORREALE: No.

16 CHAIRMAN MORDAS: Kent.

17 BOARD MEMBER FINDLEY: No.

18 CHAIRMAN MORDAS: Georgia.

19 BOARD MEMBER RAMPE: No.

20 CHAIRMAN MORDAS: Cathy

21 BOARD MEMBER DAWKINS? No.

22 CHAIRMAN MORDAS: No.

23 Whether the alleged difficulty was self-created, which
24 consideration shall be relevant to the decision of the
25 Zoning Board but shall not necessarily preclude the

1 - RE: M. & K. KAVANAUGH -

2 granting of the area variance.

3 I'll say yes.

4 Georgia.

5 BOARD MEMBER RAMPE: Yes.

6 CHAIRMAN MORDAS: Cathy.

7 BOARD MEMBER DAWKINS: Yes.

8 CHAIRMAN MORDAS: Kent.

9 BOARD MEMBER FINDLEY No.

10 CHAIRMAN MORDAS: No?

11 BOARD MEMBER FINDLEY: No.

12 CHAIRMAN MORDAS: Matt.

13 BOARD MEMBER MORREALE: No.

14 CHAIRMAN MORDAS: All right. Let's see if I can get
15 this one straight.

16 In regards to Mr. Kavanaugh's request for relief from
17 Town Code 199-54-c, minimum lot depth of 150 feet,
18 Mr. Kavanaugh is requesting relief in the form of 62.27
19 feet.

20 How do you vote, Georgia, granting this variance?

21 BOARD MEMBER RAMPE: Yes.

22 CHAIRMAN MORDAS: Cathy.

23 BOARD MEMBER DAWKINS: Yes.

24 CHAIRMAN MORDAS: I'll say yes.

25 Kent.

1 - RE: M. & K. KAVANAUGH -

2 BOARD MEMBER FINDLEY: No.

3 CHAIRMAN MORDAS: Matt.

4 BOARD MEMBER MORREALE: Yes.

5 CHAIRMAN MORDAS: Okay.

6 All right. Mr. Kavanaugh, you have the green light on
7 your project. I wish you lots of luck with it.

8 I'd also like to say that a large part of my
9 decision-making in regards to this was the letter I got
10 from the Wolf Lake Association.

11 BOARD MEMBER RAMPE: Mine, as well.

12 CHAIRMAN MORDAS: I feel they do a great job up there.
13 You live in a beautiful area. I hope it stays that way.

14 MR. KAVANAUGH: Thank you.

15 CHAIRMAN MORDAS: Thank you.

16 All right. One more question, Mr. Kavanaugh.

17 MR. KAVANAUGH: Yes.

18 CHAIRMAN MORDAS: This doesn't have any effect on our
19 decision, but I would like permission to use your case for
20 discussion by the Board --

21 MR. KAVANAUGH: Yes.

22 CHAIRMAN MORDAS: -- without you being present. But
23 it would just be your particular situation. I'd like to
24 further discuss it, in the future, with my fellow board
25 members.

1 - RE: M. & K. KAVANAUGH -

2 MR. KAVANAUGH: Yeah, no. Feel free to use.

3 CHAIRMAN MORDAS: Discuss potential fine-tuning of our
4 code and closing of some perceived loopholes.

5 MR. KAVANAUGH: Okay.

6 CHAIRMAN MORDAS: Thank you very much, sir.

7 MR. KAVANAUGH: Yes.

8 CHAIRMAN MORDAS: All right. A motion to close the
9 meeting tonight?

10 BOARD MEMBER RAMPE: I'll make a motion.

11 CHAIRMAN MORDAS: Do I have a second?

12 BOARD MEMBER DAWKINS: Second.

13 CHAIRMAN MORDAS: All in favor?

14 BOARD MEMBER RAMPE: Aye.

15 BOARD MEMBER DAWKINS: Aye.

16 BOARD MEMBER FINDLEY: Aye.

17 BOARD MEMBER MORREALE: Aye.

18 CHAIRMAN MORDAS: Aye.

19 (The motion was approved and carried.)

20 (Time noted: 7:53 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 Michael and Kelly Kavanaugh, 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 18, 2018

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