

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

---

*Meeting Minutes*  
*7-26-18*  
*June 26, 2018*

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

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ZONING BOARD OF APPEALS

MINUTES

July 26, 2018

TOWN HALL

WURTSBORO, NEW YORK

ZONING BOARD MEMBERS :

MATTHEW MORDAS, Chairman

CATHY DAWKINS, Board Member

GEORGIA RAMPE, Board Member

KENT FINDLEY, Board Member

MATTHEW MORREALE, 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

EXECUTIVE SESSION

----- X

Town Hall  
Town of Mamakating  
June 28, 2018  
7:05 P.M.

ZONING BOARD MEMBERS :

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

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(845) 252-3515

Reported by: Rosemary A. Meyer

1                   - RE: EXECUTIVE SESSION -

2           CHAIRMAN MORDAS: Okay. Good evening, ladies and  
3 gentlemen. Welcome to the Mamakating Zoning Board of  
4 Appeals meeting for July 26th, 2018. I'm your chairman,  
5 Matthew Mordas.

6           I start off the meeting with a roll call.

7           Georgia Rampe.

8           BOARD MEMBER RAMPE: Here.

9           CHAIRMAN MORDAS: Cathy Dawkins.

10          BOARD MEMBER DAWKINS: Here.

11          CHAIRMAN MORDAS: Kent Findley.

12          BOARD MEMBER FINDLEY: Here.

13          CHAIRMAN MORDAS: Matthew Morreale.

14          BOARD MEMBER MORREALE: Here.

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

17          I'd like to ask the Board if they had time to review  
18 our last minutes from May. Are they willing to accept? Do  
19 I have a motion to accept the May meeting minutes?

20          BOARD MEMBER RAMPE: I'll make the motion to accept  
21 them.

22          CHAIRMAN MORDAS: Do I have a second?

23          BOARD MEMBER DAWKINS: I'll second.

24          CHAIRMAN MORDAS: All in favor?

25          BOARD MEMBER DAWKINS: Aye.

1                   - RE: EXECUTIVE SESSION -

2           BOARD MEMBER RAMPE: Aye.

3           BOARD MEMBER MORREALE: Aye.

4           CHAIRMAN MORDAS: Aye.

5           CHAIRMAN MORDAS: No?

6           BOARD MEMBER FINDLEY: I didn't get to read them.

7           CHAIRMAN MORDAS: Oh, well, motion passed. Not doing  
8 their homework.

9                   (The motion was approved and carried.)

10          CHAIRMAN MORDAS: All right. Before I call up the  
11 first applicant, I request, of the Board, a motion to go  
12 into Executive Session due to the potential for litigation  
13 with some of the upcoming applicants. Do I have a motion?

14          BOARD MEMBER DAWKINS: So moved.

15          CHAIRMAN MORDAS: Second?

16          BOARD MEMBER FINDLEY: I'll second it.

17          CHAIRMAN MORDAS: All in favor?

18          BOARD MEMBER DAWKINS: Aye.

19          BOARD MEMBER RAMPE: Aye.

20          BOARD MEMBER FINDLEY: Aye.

21          BOARD MEMBER MORREALE: Aye.

22          CHAIRMAN MORDAS: Aye.

23                   (The motion was approved and carried.)

24          CHAIRMAN MORDAS: I will also include Kyra Platt in  
25 the Executive Session.

1                   - RE: EXECUTIVE SESSION -

2           We'll try to be as brief as possible. Thank you.

3                   (The Board recessed for Executive Session at  
4                   7:01 p.m. )

5                               \* \* \* \* \*

6                   (The Board came out of Executive Session at  
7                   7:37 p.m.)

8           CHAIRMAN MORDAS: A motion to come out of Executive  
9           Session.

10           BOARD MEMBER MORREALE: Second.

11           BOARD MEMBER FINDLEY: Motion.

12           CHAIRMAN MORDAS: All in favor?

13           BOARD MEMBER DAWKINS: Aye.

14           BOARD MEMBER RAMPE: Aye.

15           BOARD MEMBER FINDLEY: Aye.

16           BOARD MEMBER MORREALE: Aye.

17           CHAIRMAN MORDAS: Aye.

18                   (The motion was approved and carried.)

19           CHAIRMAN MORDAS: All right.

20           MR. MOGEL: No votes were taken in Executive Session.

21                   (Time noted: 7:37 p.m.)

22                               \* \* \* \* \*

23

24

25

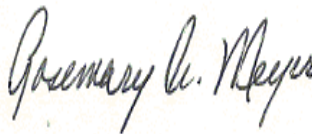
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REPORTER'S CERTIFICATION

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 Executive Session, 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: September 5, 2018



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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X

Pantilieris  
Public Hearing - Use, Area, Interpretation,  
Special Use Variance  
Tax Map Section 12; Block 1; Lot 16  
Neighborhood Residential Zone

----- X

Town Hall  
Town of Mamakating  
June 28, 2018  
7:05 P.M.

ZONING BOARD MEMBERS :

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

Also Present: Thomas Farrell, Esq.  
Applicant

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

Reported by: Rosemary A. Meyer

1                                   - RE: PANTILIERIS -

2           CHAIRMAN MORDAS: Okay. First on the agenda is  
3 Mr. Pantilieris.

4           How you doing today, Mr. Farrell?

5           MR. FARRELL: All right. Very good.

6           You want me to make an appearance again, on the  
7 record? Thomas G. Farrell, 41 Dolson Avenue, Middletown,  
8 New York, for the Applicant, the Petitioner.

9           CHAIRMAN MORDAS: Time is moving on, so please refresh  
10 us as to what the applicant is requesting.

11          MR. FARRELL: This is the gentleman that bought some  
12 property on Walker Valley Road in the beginning of 2003.  
13 And prior to his purchase for about \$215,000 he had a title  
14 search done and the title search came up with this from the  
15 Building Department. It said construction was done prior  
16 to the issuance of CO; no CO is required. Then it also  
17 checks off pertinent COs have been issued and copies are  
18 enclosed. And then under the violation search it says:  
19 There are no violations pertinent to this property on file  
20 in this office. And it was represented to him by the  
21 seller that was a two-family house with a zoning  
22 classification or a tax classification of 220, and so he  
23 asked the seller to give him some proof that this was a  
24 legal two-family. He also put it in the contract that he  
25 was purchasing this property, that it was a legal

1                                   - RE: PANTILIERIS -

2 two-family, and insisted upon the seller giving him that  
3 representation. The seller produced a copy of the tax bill  
4 from the Town, from the Town Assessor's office, and on it  
5 it indicated that it was a two-family house, classification  
6 220. Based upon what he saw in the Town records, both in  
7 the Town Assessor's office and also from the Town Building  
8 Department's office that there were no violations, he went  
9 and he purchased the house in 2003.

10           He then lived and used the house as a two-family until  
11 approximately 2014 when the building inspector, I guess had  
12 changed, I think it was Mary Grass at that point as opposed  
13 to John Griffo, that it changed. She said it is not a  
14 legal two-family and that began a process of going back and  
15 forth, and here we are today because she's refusing to give  
16 us a building permit. That's the procedure that people  
17 want us to do.

18           We're asking the ZBA to act under one of the things  
19 that they're required to do, and that is to do justice to  
20 citizens of your town. When the law is harsh and  
21 vindictive and unfair, one of the powers that you have,  
22 given to you only, is to mediate and meditate the zoning  
23 law and say: This is not right, what happened to him.  
24 When he bought the property our town made the mistake, and  
25 two departments. For 12 years he did, enacted based upon

1                               - RE: PANTILIERIS -

2     that. And now it's up to us to act fairly and for our  
3     citizens and allow him to have the two-family. He's still  
4     got to go through the Planning Board, all of that. He's  
5     still got to get all of the fire code, the building code,  
6     the plumbing code, that whole panorama of things that are  
7     required for a two-family house. He has to be in  
8     compliance with those things at the end for him to get a CO  
9     or permit or whatever the case might be that the building  
10    inspector is going to insist upon. So he's not done. This  
11    is step one. There's two more very important steps,  
12    apparently, the Planning Board and also the building code,  
13    New York State Building Code, plumbing, fire and other  
14    state requirements.

15           That's it, the whole magilla.

16           CHAIRMAN MORDAS: All right. Thank you, Mr. Farrell.  
17           Any questions from board members?

18           BOARD MEMBER FINDLEY: Yes. That letter you  
19    mentioned, you said there was a CO attached to that letter  
20    or there was no CO attached to that letter?

21           MR. FARRELL: This is what they consider the search,  
22    the letter from the Town, on the Town letterhead. If you  
23    go back and you look, there are some COs in the file, but  
24    they're more current. There's nothing that goes back to  
25    1983. There's some from 1996 when a guy named Acarillo

1                                 - RE: PANTILIERIS -

2 (phonetic), he owned the property. And then there's some  
3 from Cirallo.

4             BOARD MEMBER FINDLEY: And what does the Certificate  
5 of Occupancy say? What does it ...

6             MR. FARRELL: Said you're in compliance. They're  
7 attached to the documents that I sent.

8             MR. MOGEL: What it indicates is that construction  
9 predates requirement for issuance of a CO, so they would  
10 not produce a CO.

11            BOARD MEMBER FINDLEY: Okay.

12            MR. FARRELL: No CO was required.

13            MR. MOGEL: Right.

14            MR. FARRELL: But there were some CO issues for some  
15 work that was done for a deck and I think some other things  
16 that were done. The only ones I found, I went through the  
17 whole file, 1996 there was one and I think one in 1997.  
18 You know, it's not for a two-family house, it was for  
19 things that were being done, renovations, whatever, decks.  
20 I went back and looked at this whole file again.

21            MR. MOGEL: And that would have necessitated a visit  
22 to the property by the building inspector to determine  
23 compliance.

24            MR. FARRELL: It appears that he did go there, yes.

25            MR. MOGEL: If they had a deck built then an inspector

1                               - RE: PANTILIERIS -

2 would have gone to the property to ensure that it was  
3 complaint and issued a CO for the deck.

4           MS. PLATT: Certificate of Compliance.

5           MR. MOGEL: A CC, okay.

6           BOARD MEMBER DAWKINS: Yes. And it says previous work  
7 done, that they were in compliance.

8           CHAIRMAN MORDAS: All right. Do I have a motion to  
9 open up the public hearing?

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

11          CHAIRMAN MORDAS: I'll second it.

12          All in favor?

13          BOARD MEMBER DAWKINS: Aye.

14          BOARD MEMBER RAMPE: Aye.

15          BOARD MEMBER FINDLEY: Aye.

16          BOARD MEMBER MORREALE: Aye.

17          CHAIRMAN MORDAS: Aye.

18                               (The motion was approved and carried.)

19          CHAIRMAN MORDAS: Kyra, are there any participants  
20 from the audience for this applicant?

21          MS. PLATT: Not for Pantilieris, no.

22          MR. MOGEL: What about the notices?

23          CHAIRMAN MORDAS: This is the second public hearing.

24          MR. MOGEL: Oh, okay.

25          MR. FARRELL: We did that the last time, all the

1                   - RE: PANTILIERIS -

2 receipts, returned receipts, certified.

3           CHAIRMAN MORDAS: Anybody from the audience that would  
4 like to speak on this application that hasn't signed up?

5                   (No verbal response.)

6           CHAIRMAN MORDAS: Do I have a motion to close the  
7 public hearing?

8           BOARD MEMBER RAMPE: I make that motion.

9           CHAIRMAN MORDAS: Second?

10          BOARD MEMBER DAWKINS: Second.

11          CHAIRMAN MORDAS: All in favor?

12          BOARD MEMBER DAWKINS: Aye.

13          BOARD MEMBER RAMPE: Aye.

14          BOARD MEMBER FINDLEY: Aye.

15          BOARD MEMBER MORREALE: Aye.

16          CHAIRMAN MORDAS: Aye.

17                   (The motion was approved and carried.)

18          MR. MOGEL: If the prior attorney didn't indicate,  
19 this is an area variance request so therefore, under SEQRA  
20 it's a Type II, and no further environmental review is  
21 required.

22          CHAIRMAN MORDAS: All right. And we are positive that  
23 this is Neighborhood Residential?

24          BOARD MEMBER DAWKINS: Yes.

25          MR. MOGEL: The criteria.

1                                 - RE: PANTILIERIS -

2             CHAIRMAN MORDAS: All right. Do I have a motion to  
3 proceed to a vote, which, prior to the vote, I will read  
4 the criteria?

5             BOARD MEMBER DAWKINS: Do we want to talk about what  
6 we're voting on? Discussion of having the variance, that  
7 we're voting on the conditional approval on approval from  
8 the Planning Board?

9             CHAIRMAN MORDAS: I think that's a wise part of this.  
10 We are going to need some Planning Board scrutiny. I feel  
11 that that would be a good criteria, that if we do issue  
12 some relief to Mr. Pantilieris, that it should require  
13 Planning Board.

14            MR. MOGEL: It would be conditional on the issuance of  
15 a special use permit by the Planning Board.

16            BOARD MEMBER DAWKINS: Correct, right.

17            CHAIRMAN MORDAS: All right.

18            BOARD MEMBER DAWKINS: So I'll make that motion, that  
19 we open it up.

20            CHAIRMAN MORDAS: That we're going to vote on it.

21            MR. FARRELL: You're going to give conditional  
22 approval subject to the approval, a special use permit from  
23 the Planning Board.

24            CHAIRMAN MORDAS: From the Planning Board.

25            MR. MOGEL: Correct.



1                               - RE: PANTILIERIS -

2           CHAIRMAN MORDAS: And specifically, the bulk  
3 regulation that requires two acres for a two-family  
4 house --

5           MR. FARRELL: Correct.

6           CHAIRMAN MORDAS: -- in the Neighborhood Residential  
7 Zone.

8           BOARD MEMBER DAWKINS: Should we have discussion now,  
9 if we wish?

10          MR. MOGEL: You have a motion on the floor.

11          BOARD MEMBER DAWKINS: Okay.

12          MR. MOGEL: So if you want, I would say that you  
13 should second it and then you can have discussion.

14          BOARD MEMBER RAMPE: I'll second the motion.

15          CHAIRMAN MORDAS: All in favor?

16          MR. MOGEL: No, no, no, no, no. Let's have  
17 discussion. Discussion, then vote. You've to do the  
18 criteria first.

19          CHAIRMAN MORDAS: Thank you.

20          MR. MOGEL: Do you want to do the criteria first and  
21 then discuss?

22          CHAIRMAN MORDAS: Sure.

23          BOARD MEMBER DAWKINS: Whatever you say.

24          CHAIRMAN MORDAS: All right.

25          In making its determination the Zoning Board shall

1                               - RE: PANTILIERIS -

2 take into consideration the benefit to the applicant if the  
3 variance is warranted as weighed against the detriment to  
4 the health, safety and welfare of the neighborhood or  
5 community by granting.

6           In making such determination the Board shall also  
7 consider whether an undesirable change will be produced in  
8 the character of the neighborhood or a detriment to nearby  
9 property would be created by the granting of the area  
10 variance.

11           Kent.

12           BOARD MEMBER FINDLEY: Yes.

13           CHAIRMAN MORDAS: Matt.

14           BOARD MEMBER MORREALE: Yes.

15           CHAIRMAN MORDAS: I'll say no.

16           BOARD MEMBER DAWKINS: I'll say no.

17           CHAIRMAN MORDAS: Georgia.

18           BOARD MEMBER RAMPE: No.

19           CHAIRMAN MORDAS: All right.

20           Whether the benefit sought by the Applicant can be  
21 achieved by some method feasible for the Applicant to  
22 pursue other than an area variance.

23           I'll say no.

24           BOARD MEMBER DAWKINS: No.

25           BOARD MEMBER RAMPE: Yes.

1                   - RE: PANTILIERIS -

2           BOARD MEMBER FINDLEY: No.

3           CHAIRMAN MORDAS: Matt.

4           BOARD MEMBER MORREALE: No.

5           CHAIRMAN MORDAS: All right. Whether the requested  
6 area variance is substantial.

7           Cathy.

8           BOARD MEMBER DAWKINS: Yes.

9           CHAIRMAN MORDAS: Georgia.

10          BOARD MEMBER RAMPE: Yes.

11          CHAIRMAN MORDAS: Kent.

12          BOARD MEMBER FINDLEY: Yes.

13          CHAIRMAN MORDAS: Matt.

14          BOARD MEMBER MORREALE: Yes.

15          CHAIRMAN MORDAS: I'll say yes on that.

16          Whether the proposed variance will have an adverse  
17 affect or impact on the physical or environmental  
18 conditions of the neighborhood or district.

19          I'll say No.

20          BOARD MEMBER RAMPE: No.

21          CHAIRMAN MORDAS: Georgia.

22          BOARD MEMBER RAMPE: No.

23          CHAIRMAN MORDAS: Kent.

24          BOARD MEMBER FINDLEY: Yes.

25          CHAIRMAN MORDAS: Matt.

1                           - RE: PANTILIERIS -

2           BOARD MEMBER MORREALE: No.

3           CHAIRMAN MORDAS: And whether the alleged difficulty  
4 was self-created, which such consideration shall be  
5 relevant to the decision of the Zoning Board but shall not  
6 necessarily preclude the granting of an area variance.

7           Matt

8           BOARD MEMBER MORREALE: Yes.

9           CHAIRMAN MORDAS: Kent.

10          BOARD MEMBER FINDLEY: Yes.

11          CHAIRMAN MORDAS: Georgia.

12          BOARD MEMBER RAMPE: No.

13          CHAIRMAN MORDAS: Cathy.

14          BOARD MEMBER DAWKINS: No.

15          CHAIRMAN MORDAS: No.

16          MR. MOGEL: You had a motion, it was seconded so if  
17 you want to discuss.

18          BOARD MEMBER DAWKINS: So I just want to go on the  
19 record as saying that from my perspective, this situation  
20 was not self-created, it was created by -- I think the Town  
21 has a certain amount of culpability. I think, clearly,  
22 from the get-go, there was some malicious intent and your  
23 client was victim of malicious intent. There were people  
24 who clearly misrepresented the truth, and I find that  
25 immorally reprehensible. And I think enough time has gone

1                               - RE: PANTILIERIS -

2 by that he just simply doesn't have any appropriate  
3 recourse other than coming to this board. So I want to go  
4 on record with that.

5           CHAIRMAN MORDAS: Thanks, Cathy.

6           Any other than board members would like to make a  
7 statement?

8           BOARD MEMBER FINDLEY: I don't have a statement, but I  
9 do have a question. Are all the other parts of the bulk  
10 table met by the Applicant? Like the side yard, front  
11 yard, rear yard?

12           MR. FARRELL: I believe everything is covered except  
13 for maybe one of the side yards. My experience with that  
14 is that generally, the ZBA gives approval to an existing  
15 situation because it's impossible to move the property line  
16 and it's impossible to change the building.

17           BOARD MEMBER FINDLEY: Well --

18           MR. FARRELL: That's been my experience when I've had  
19 these things over the years.

20           BOARD MEMBER FINDLEY: Right, but --

21           MR. MOGEL: It's the practice of this board that if  
22 additional variances are necessary, required, particularly  
23 if you're going to go in front of the Planning Board, then  
24 it's good to get everything addressed. That will save you  
25 to the time. So I think it would behoove us to make sure

1                               - RE: PANTILIERIS -

2       that the side yards are okay.

3               BOARD MEMBER DAWKINS: It looks to me like the front  
4       yard is 82. Am I looking at that right? The one side yard  
5       is 79. The rear yard looks to be way more than that, but I  
6       don't see it marked on it. But one side yard looks to be  
7       13 feet.

8               CHAIRMAN MORDAS: All right. What's the other side  
9       yard?

10              BOARD MEMBER DAWKINS: 79.9.

11              MR. MOGEL: So 79, 13, you've got --

12              CHAIRMAN MORDAS: What's that, 92?

13              MR. MOGEL: Ninety-two. So you might need one side  
14       yard variance and a variance for the total side yards.

15              BOARD MEMBER FINDLEY: Yes. I mean if it was still a  
16       single-family it might actually meet the code.

17              MR. MOGEL: If what?

18              BOARD MEMBER FINDLEY: If it was a single-family it  
19       might actually meet it. It still may be short, me looking  
20       at the table right now. But for a two-family, it clearly  
21       doesn't meet the side.

22              MR. MOGEL: So I would recommend that the Board go  
23       through the criteria for the side yard variance.

24              CHAIRMAN MORDAS: And what would that be? Thirteen  
25       feet? It's 50 feet for --

1                   - RE: PANTILIERIS -

2           BOARD MEMBER DAWKINS: Combined --

3           BOARD MEMBER FINDLEY: It just moved. I had it up on  
4 the phone. I can get it again. Hang on.

5           For a two-family, minimum lot width is 150.

6           MR. MOGEL: Well, lot width is not an issue, is it?

7           BOARD MEMBER FINDLEY: Well, I think it is. What's  
8 the lot width? You said ...

9           MS. PLATT: That's road frontage. You look at lot  
10 width from the road frontage.

11          BOARD MEMBER FINDLEY: And what's the road frontage?

12          MR. FARRELL: You have the survey up there. I don't  
13 have it here.

14          BOARD MEMBER DAWKINS: Okay. 158.9.

15          MR. MOGEL: Okay. So they're okay.

16          BOARD MEMBER FINDLEY: How much was it?

17          MR. MOGEL: 158 on that one.

18          BOARD MEMBER FINDLEY: Oh, all right. You make that.

19          MR. MOGEL: So you have width.

20          CHAIRMAN MORDAS: Depth.

21          BOARD MEMBER FINDLEY: Total depth is 200.

22          CHAIRMAN MORDAS: Lot depth.

23          BOARD MEMBER DAWKINS: 275.33.

24          BOARD MEMBER FINDLEY: Front is 50.

25          MR. MOGEL: Got that.

1                               - RE: PANTILIERIS -

2           BOARD MEMBER FINDLEY: Rear is 50.

3           MR. MOGEL: Got that.

4           BOARD MEMBER FINDLEY: Side, 150; bulk is a hundred.

5           MR. MOGEL: Okay. So you've got 50 for each side and  
6 a hundred for the total. So you need an eight foot  
7 variance for the total side yard and for one side yard you  
8 need a variance of, what was that?

9           CHAIRMAN MORDAS: Thirteen feet.

10          MR. MOGEL: You're 13 feet so you need 50, so that's  
11 37 feet.

12          CHAIRMAN MORDAS: Thirty-seven feet.

13          MR. MOGEL: Yes.

14          BOARD MEMBER FINDLEY: Development coverage shouldn't  
15 be a problem; correct? I mean that's just a guess.

16          Max height, 30 feet.

17          MR. MOGEL: Thirty feet. Is the house higher than 30  
18 feet?

19          MR. FARRELL: No.

20          BOARD MEMBER FINDLEY: Well, two and a half stories.

21          MR. MOGEL: So the question is does the Board feel  
22 comfortable with going through the criteria once for both  
23 variances or do you feel that you need to go through each  
24 variance separately?

25          BOARD MEMBER DAWKINS: Once.



1                                 - RE: PANTILIERIS -

2             BOARD MEMBER FINDLEY: I'm good with that.

3             MR. MOGEL: That probably makes sense.

4             BOARD MEMBER FINDLEY: Good with the once myself.

5             MR. MOGEL: You want to go through it one more time?

6             BOARD MEMBER FINDLEY: No. I'm saying I'm good with  
7 the one time that we went through it.

8             CHAIRMAN MORDAS: In this situation, I'm good with the  
9 once through because it's conditional based on the Planning  
10 Board review.

11             How does the rest of the board feel on that?

12             BOARD MEMBER RAMPE: I agree with you.

13             CHAIRMAN MORDAS: Okay. All right.

14             In regards to granting Mr. Pantilieris relief from the  
15 bulk regulations regarding both side yards, hundred foot  
16 total, he needs eight foot; in regards to the one side yard  
17 of 13 foot, that he needs relief of 37 feet to comply with  
18 our bulk regulations; and also, in regards to relief from  
19 the two acre criteria, he has just, I believe a shade over  
20 one acre --

21             MR. FARRELL: Correct.

22             CHAIRMAN MORDAS: -- do I have a motion to proceed to  
23 a vote?

24             MS. MOGEL: You already had a vote to the table and  
25 you have a second At this point, you would just vote.

1                               - RE: PANTILIERIS -

2           CHAIRMAN MORDAS: Vote. Okay.

3           I will vote yes on conditional relief for  
4 Mr. Pantilieris.

5           BOARD MEMBER DAWKINS: Yes.

6           CHAIRMAN MORDAS: Georgia.

7           BOARD MEMBER RAMPE: Yes.

8           BOARD MEMBER FINDLEY: No.

9           BOARD MEMBER MORREALE: Yes.

10          CHAIRMAN MORDAS: Okay.

11          MR. FARRELL: Let me say this. I may be back here  
12 again. You know, you never know. But I want to thank you  
13 very much. I know how much you get paid. I want to thank  
14 you very much for your attention and your percificity, I  
15 guess is the best word. You looked carefully at it. I  
16 don't mind that people oppose or whatever, but you took the  
17 time to think and I appreciate that so much, that you did  
18 that. So do the people in the town.

19          BOARD MEMBER RAMPE: Thank you.

20          MR. FARRELL: Thank you, again.

21          CHAIRMAN MORDAS: Thank you. Good luck with the  
22 Planning Board.

23                               (Time noted: 7:57 p.m.)

24                               \* \* \* \* \*

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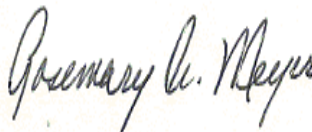
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REPORTER'S CERTIFICATION

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 Pantilieris, 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: September 9, 2018

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X  
Mary Helen Micinowski  
Appeal of Decision  
Tax Map Section 12; Block 1; Lot 59.1  
----- X

Town Hall  
Town of Mamakating  
July 28, 2018  
7:57 P.M.

ZONING BOARD MEMBERS :

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

Also Present: Mary Helen Micinowski,  
Applicant

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

Reported by: Rosemary A. Meyer

1                   - RE: MARY HELEN MICINOWSKI -

2           CHAIRMAN MORDAS: Okay. All right.

3           The next public hearing, the applicant, Mary Helen  
4   Micinowski. Or is it Micinowski?

5           MS. MICINOWSKI: Micinowski.

6           CHAIRMAN MORDAS: All right. Please refresh us --

7           MS. MICINOWSKI: Okay.

8           CHAIRMAN MORDAS: -- on your situation.

9           MS. MICINOWSKI: So in October of 1996 I purchased the  
10   property at 49 Birchwood Drive with the understanding that  
11   this is agriculturally zoned and we were permitted horses.  
12   The previous owner had horses, as the owner before them.  
13   We've had horses for 21 years on the property without a  
14   problem. We have had good relations with our neighbors.  
15   It's never been an issue.

16           My initial request was to change the variance from  
17   residential to agricultural, but based on a letter that was  
18   presented by the Board to me at the last meeting from  
19   August 28th, 1996, I am agriculturally zoned, I'm not in  
20   violation of anything. It's a RAG-1 zoning; horses are  
21   permitted. So we've had these horses and without an issue  
22   for 20 years.

23           Now, our neighbors are complaining that, claiming that  
24   runoff from the horse manure is contaminating their  
25   property. There is runoff because there's rainwater that

1                   - RE: MARY HELEN MICINOWSKI -

2 runs through our property. However, I've done research,  
3 and you can look it up on Google, and I presented a study  
4 that was done. There is no harmful bacteria in horse  
5 manure. It is not toxic, there is no E. coli, there is  
6 nothing in horse manure. So if there is something  
7 contaminating their property, it's not coming from our  
8 horses. I don't know what the problem with horses is, but  
9 you can Google it and everything comes up that horse manure  
10 is not toxic based on the gut of the horses and what they  
11 ingest. And like I said, we've had the horses without an  
12 issue for 21 years.

13           I bought the property specifically because we needed  
14 the horses, we had horses. We were buying it. Had it been  
15 zoned residential, I would never even have looked at the  
16 property because it would be nothing I would need. I  
17 bought it specifically because it had two barns on it,  
18 fenced-in paddock. That was all there. We did not put  
19 them in. That was all there when we moved in. It was a  
20 horse farm.

21           And the prior -- we have a letter to the Town from a  
22 prior owner that they had 11 horses. That was dated  
23 October 30, '96. We closed October 31st of '96.

24           BOARD MEMBER FINDLEY: You had mentioned last meeting  
25 that the DEC visited.

1                   - RE: MARY HELEN MICINOWSKI -

2           MS. MICINOWSKI: Yes. And I have not received  
3 anything in writing from her. I did FOIL to the Town. I  
4 received nothing on my FOIL request. She verbally told us  
5 that there was no runoff, but I have not received anything  
6 in writing. I don't know if you have, but I do not.

7           CHAIRMAN MORDAS: All right.

8           MR. MORRIS: Beaches, they're having the same problem.

9           MS. MICINOWSKI: An open area, they were having  
10 bacteria just from groundwater. So it's been hot and the  
11 groundwater -- it's not necessarily a -- it's not -- like I  
12 said it's -- I'm not going to debate that there may be  
13 bacteria in the pond, but it's not coming from our horses  
14 and it's not coming from our property. That was -- and  
15 we've zoned. We've been -- we've had the zoning,  
16 agricultural use, had the horses for 21 years without an  
17 issue. And prior to that there was never an issue. So ...

18           CHAIRMAN MORDAS: How many horses do you currently  
19 have?

20           MS. MICINOWSKI: Seven.

21           CHAIRMAN MORDAS: Seven. All right.

22           MR. MOGEL: As a preliminary matter, I just want to  
23 offer some clarification both for the Board and for members  
24 of the public. The Zoning Board of Appeals is a creature  
25 of statute. It's created by a law, New York State law.

1                   - RE: MARY HELEN MICINOWSKI -

2   There are additional restrictions and modifications made by  
3   to the local town. But by statute, the Zoning Board of  
4   Appeals can do one of four things. They can grant a use  
5   variance, which is not the case here. They can grant an  
6   area variance. They can interpret the code, the zoning  
7   code. Or they can act as like an appellate court, an  
8   appeals court, over any decision made by the building  
9   inspector, the code enforcement officer. So what you're  
10  here for today and what you have presented is you received  
11  a violation and you appealed that violation, as is your  
12  right. So the Board is acting like appeals judges. What  
13  they are determining is whether the decision of the  
14  building inspector was correct. Okay? They're going to be  
15  looking at the code and they will make a determination as  
16  to whether that decision was correct.

17           CHAIRMAN MORDAS: Thank you, Counselor.

18           Any other questions from the Board at this time before  
19  I make a motion to open up the public hearing?

20                   (No verbal response.)

21           CHAIRMAN MORDAS: All right.

22           I would just like to say that myself and my fellow  
23  board members have received many letters from the public.  
24  I've read them all and they will be entered into the record  
25  as part of these proceedings.



1                   - RE: MARY HELEN MICINOWSKI -

2           Do I have a motion to open the public hearing?

3           BOARD MEMBER FINDLEY: I make the motion.

4           BOARD MEMBER RAMPE: I'll second it.

5           CHAIRMAN MORDAS: All in favor?

6           BOARD MEMBER DAWKINS: Aye.

7           BOARD MEMBER RAMPE: Aye.

8           BOARD MEMBER FINDLEY: Aye.

9           BOARD MEMBER MORREALE: Aye.

10          CHAIRMAN MORDAS: Aye.

11                   (The motion was approved and carried.)

12          CHAIRMAN MORDAS: Okay. Have a seat. Get  
13 comfortable. This might to be a while.

14          All right. Mr. Steven Boniface.

15          MR. S. BONIFACE: Hi. I'm one of the owners of the  
16 pond.

17          CHAIRMAN MORDAS: Okay. I usually request where you  
18 come from.

19          MR. S. BONIFACE: Oh.

20          Steve Boniface. I live at 24 Crystal Lake, White  
21 Lake, New York.

22          CHAIRMAN MORDAS: Thank you.

23          MR. S. BONIFACE: I'm one of the owners of the  
24 property and the pond in question. It's literally probably  
25 a hundred feet from the horse farm.

1                   - RE: MARY HELEN MICINOWSKI -

2           There's a culvert that goes out of the horse farm  
3 directly into our pond, and there's no doubt that there's  
4 pollution coming from the horse farm. We've had it tested  
5 several times. It has E. coli. It was bad enough on one  
6 of the tests that the lab called us and said, We recommend  
7 you do not swim or let your animals swim in that pond.  
8 This has been a family swimming pond for over 50 years.  
9 Didn't really realize the horses were causing the problem  
10 until the algae bloom got substantially worse than it used  
11 to be. Talked to a few people that knew about ponds and  
12 they pointed me in the direction of where would the  
13 pollution be coming from, and it's obvious. It comes from  
14 the horse farm.

15           I've counted as many as 12 horses there, at times.  
16 And one of the big issues, I believe, is too many horses.  
17 And there's a manure pile that's been fermenting there for  
18 six or eight years, at least, that's probably, I didn't go  
19 into the property and measure it, but it looks like it's at  
20 least a hundred foot long, four and five foot high, and, I  
21 don't know, ten or fifteen foot deep. It's a pile that's  
22 been there a long time. It's fermenting. And the fresh  
23 horse manure that's dropped on the ground every day, when  
24 it rains it runs directly into our pond. It is definitely  
25 the cause of the pollution. I mean if we have to hire

1                   - RE: MARY HELEN MICINOWSKI -

2 somebody to come in and do a study on it or whatever, I  
3 would be willing to do that because, like I said, it's been  
4 our family swimming pond, picnicking pond for over 50 years  
5 and it's very important to the family.

6           So -- and I just want to say that somebody way smarter  
7 than me, years ago, came up with the laws that you can only  
8 have, I don't know, I think it's one horse on two acres.  
9 I've read the law; a little confusing. And I know they  
10 have two and a half, but to have up to 12 horses on a two  
11 and a half acre parcel is just ridiculous.

12           I know they're good people. They've been good  
13 neighbors for many years. My niece used to go there for  
14 riding lessons. They've been good people. I spoke to them  
15 directly a year or more ago about it. I addressed the  
16 manure pile issue because I think that's a lot of the  
17 problem, and it didn't go anywhere. So I called the  
18 building inspector many times. They did go over and cite  
19 them, I believe. It's detrimental to our property. And  
20 ultimately, it goes from our pond into the Stony Brook,  
21 which is a Class B trout stream, so it can't be great for  
22 that, either.

23           I don't know if you ask questions or ...

24           CHAIRMAN MORDAS: If this operation has been going on  
25 at the Micinowski place for so many years, what prompted

1                   - RE: MARY HELEN MICINOWSKI -

2 you to start testing now?

3           MR. S. BONIFACE: Well, like I said, we've noticed the  
4 algae bloom getting worse and worse every year. The smell  
5 of the water is a little worse. The prior owners, I  
6 couldn't actually hear exactly what she was saying, but I  
7 think she said something about a bunch of horses. From  
8 what I know, it was the Rose family who was actually an  
9 employee of ours who never had more than two horses there.  
10 But I just think it's an overabundance of horse manure and  
11 an old manure pile.

12          CHAIRMAN MORDAS: I visited your neighborhood a few  
13 days back. Yes, it's easy to point the finger at the  
14 Micinowskis as the source of the problem. Have you  
15 investigated other septic systems that might be surrounding  
16 the pond?

17          MR. S. BONIFACE: I have not. But this is a direct --  
18 you can watch the groundwater go through the culvert, black  
19 water, and run directly into the pond. I mean it's -- in  
20 laymen's terms, it's obvious to me.

21          CHAIRMAN MORDAS: Do you have any photographs that you  
22 could potentially present?

23          MR. S. BONIFACE: I only have, like, a photograph of  
24 the pond. I don't think it's going to show the culvert.  
25 Or if you guys would prefer, I could take a picture the

1                   - RE: MARY HELEN MICINOWSKI -

2 next time it rains and show you water running to the pond,  
3 or a video.

4           CHAIRMAN MORDAS: I'm not going to respond to that  
5 yet, but I might before the night is over.

6           BOARD MEMBER DAWKINS: I presume that the culvert is  
7 owned by the Town, the culvert that goes under the road?

8           MR. S. BONIFACE: Yes, it's a town road.

9           BOARD MEMBER DAWKINS: When did that culvert appear?

10          MR. S. BONIFACE: It's been in there for a long time.  
11 I think it was replaced maybe ten years ago, but there was  
12 a culvert there before that, too.

13          BOARD MEMBER DAWKINS: And how deep is the pond?

14          MR. S. BONIFACE: On average, it's probably about six  
15 feet. And it's about an acre, I think, maybe a little  
16 better.

17          CHAIRMAN MORDAS: Any further questions from the Board  
18 for Mr. Boniface?

19          BOARD MEMBER RAMPE: Yes, I have a few.

20          The sample, the water samples that you took for water  
21 testing, what were the sampling sites? Were they right  
22 next to the culvert?

23          MR. S. BONIFACE: We did them around the pond. Of  
24 course, the worse one was right at the culvert where the  
25 culvert runs into the pond. And it's always worse after a

1                   - RE: MARY HELEN MICINOWSKI -

2 rain. The pond has fresh water coming in from the brook,  
3 so after a while it reduces the amount of fecal matter  
4 because it kind of flushes itself and there's no runoff  
5 coming from the horse arena. But then as soon as it rains  
6 again, the levels go way up. I mean we don't -- we have a  
7 lot of picnics and we have a picnic pavilion there. We've  
8 been recommending everybody, they don't even swim in it  
9 this year. We didn't really know how bad it was, but like  
10 I said, when the lab called. And I know this is just -- I  
11 could have taken that sample anywhere and I'd get that.  
12 But if you need certified samples by somebody that does  
13 that, I mean we would be willing to do that.

14               And like I -- I know they're just trying to make a  
15 living like everybody else. I don't like this probably  
16 much more than they do, but I don't want the property to be  
17 ruined because they have too many and they haven't cleaned  
18 it up.

19               Now, when I spoke to Ozzie a year or more ago, his  
20 claim with the manure pile was he was using it as a berm to  
21 keep water out of his arena. I don't know. You can't stop  
22 water. Eventually, it fills to a point, it runs around, it  
23 runs through, it runs over. So it's running through horse  
24 manure into our pond. There's no doubt where it's coming  
25 from.

1                   - RE: MARY HELEN MICINOWSKI -

2           BOARD MEMBER RAMPE: Do you have any documentation of  
3 the results from the water samples?

4           MR. S. BONIFACE: Yes.

5           BOARD MEMBER RAMPE: Do you have copies of that?

6                   (Mr. S. Boniface produced a document.)

7           BOARD MEMBER RAMPE: Do you have geese on the pond?

8           MR. S. BONIFACE: We have geese, we have cranes, we  
9 have eagles that come in there. We have all the local  
10 fish. But ...

11          BOARD MEMBER RAMPE: 920 count.

12          MR. S. BONIFACE: Right. Tells you here that it's ...

13          BOARD MEMBER RAMPE: Fecal coliform.

14          MR. S. BONIFACE: Right.

15          CHAIRMAN MORDAS: All right.

16          BOARD MEMBER RAMPE: More than 600 and 920.

17          BOARD MEMBER DAWKINS: Can we keep these?

18          MR. S. BONIFACE: Yes.

19          BOARD MEMBER DAWKINS: Thank you.

20          BOARD MEMBER RAMPE: Do you want to look at these?

21          BOARD MEMBER FINDLEY: Yes, I'll take a look.

22          CHAIRMAN MORDAS: All right.

23          BOARD MEMBER MORREALE: I have a question.

24          CHAIRMAN MORDAS: We'll enter these documents into the  
25 record.

1                   - RE: MARY HELEN MICINOWSKI -

2           BOARD MEMBER MORREALE: Mr. Boniface, the algae bloom  
3 initiated the concern; correct?

4           MR. S. BONIFACE: More -- yes. It seemed to be  
5 getting worse and worse every year and it didn't really  
6 dawn on me why. Talked to, like I said -- at our business  
7 we deal with people that deal with ponds. Catskill Pond is  
8 one of them. I mean Scott, he's the one that said look  
9 around, what's feeding the pond, where's the water coming  
10 from. And then at that point, it dawned on me, it's  
11 obvious. To me, it's obvious.

12           BOARD MEMBER MORREALE: How many homes surround the  
13 pond?

14           MR. S. BONIFACE: There's only three homes. One is  
15 theirs and one is my nephew, one is my brother.

16           BOARD MEMBER MORREALE: How old are the homes,  
17 roughly?

18           MR. S. BONIFACE: Excuse me?

19           BOARD MEMBER MORREALE: How old are the homes?

20           MR. S. BONIFACE: Built in the early '60s, the same  
21 year in the early '60s. Both homes are probably 200 to 250  
22 feet from the pond where the horse arena is probably a  
23 hundred feet or less.

24           BOARD MEMBER MORREALE: You aware of where the septic  
25 systems that are in place from these homes?



1                   - RE: MARY HELEN MICINOWSKI -

2           MR. S. BONIFACE: They're near the house. I don't  
3 know exactly where.

4           BOARD MEMBER MORREALE: But is it a septic system?

5           MR. S. BONIFACE: Yes, yeah. It's not town septic.  
6 It is a septic tank with a leach field, you know.

7           BOARD MEMBER MORREALE: Leach field. Okay. Thank  
8 you.

9           CHAIRMAN MORDAS: All right. Any more questions from  
10 the Board for Mr. Boniface?

11                   (No verbal response.)

12           CHAIRMAN MORDAS: Thank you very much, sir.

13           All right. Next on the list is Holly Bogner, or is  
14 that Bodner?

15           MS. H. BODNER: Bodner.

16           CHAIRMAN MORDAS: Bodner.

17           Please state your ...

18           MS. H. BODNER: Hi. I'm Holly Bodner. I live at 114  
19 Birchwood Drive, Pine Bush, New York.

20           CHAIRMAN MORDAS: Thank you.

21           MS. H. BODNER: And I've been with them, a part owner  
22 in that family pond. And I really want to just, you know,  
23 I want to reiterate what my brother Steve said about the  
24 pond. It's been in our family for a long time, since I was  
25 a little child. And, you know, it is a really important

1                   - RE: MARY HELEN MICINOWSKI -

2 part of my -- I grew up there. Many of my children are now  
3 grown. They go up swimming there and I would hate to see  
4 that change.

5           I do know Ozzie and Helen. My daughter was the one  
6 who learned to ride with them. They're lovely people, so  
7 it's not about that. It really is about the manure pile  
8 and the source coming through it.

9           I've spoken to people who deal with pond issues or  
10 whatever, and they also said that, you know, that during a  
11 storm that some of the water is feeding into the pond,  
12 you're going to get bacteria count that goes up every time  
13 when it rains. And a bigger issue for me is if, God  
14 forbid, anyone got sick from that. So trying to keep kids  
15 away from a pond that has been, you know, swimmable for  
16 years and to try to keep them out of the water. I cannot  
17 always there 24/7 to control who goes in and out of the  
18 pond. You know, it's difficult. And then whose liability  
19 is that at the end of the day. It's important for me that,  
20 you know, the water is safe.

21           BOARD MEMBER RAMPE: Have you had any instances of  
22 pink eye in the children or anything like that?

23           MS. H. BODNER: Not that I can recall with any  
24 regularity from the pond or anything like that. I know  
25 swimmer's ear has happened, but I don't have any specific

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2 or ongoing instances of that.

3           BOARD MEMBER RAMPE: Okay.

4           BOARD MEMBER FINDLEY: Was the pond water ever tested  
5 before? I think you're involved in the test too, so that's  
6 why I'm asking.

7           MS. H. BODNER: Right. We did have a test done last  
8 year before the season. Again, it seemed like it was a lot  
9 more algae growth than it had been in previous years. It  
10 came back within swimmable limits. I can't remember the  
11 exact amount. Unfortunately, Ulster County Lab who did the  
12 testing went to a new computer system and they have no  
13 recourse. So while I have the date of the test of last  
14 year, I don't know -- or I can't reproduce the results. I  
15 want to say it was around 300 parts per million. And I  
16 believe what the gentleman told us on the phone, anything  
17 over 550 is considered not swimmable.

18           BOARD MEMBER FINDLEY: But as far as you know, as of  
19 last year it was swimmable.

20           MS. H. BODNER: What?

21           BOARD MEMBER FINDLEY: As far as you know, as of last  
22 year it was swimmable.

23           MS. H. BODNER: Yes, we did use it last year.

24           David, do you have a picture that shows the algae  
25 formation on it this year? If you'd like to see that.

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2                                   (A photograph on a cell phone was  
3                                   presented to the Zoning Board.)

4           MR. MOGEL: What are you showing?

5           BOARD MEMBER FINDLEY: A picture of algae.

6           BOARD MEMBER RAMPE: A picture of algae on the water.

7           MR. MOGEL: A picture of algae?

8           Since it's being shown to the Board, I would ask that  
9           it be printed out so it can become part of the record.

10          CHAIRMAN MORDAS: E-mail it to Kyra.

11          MS. H. BODNER: Oh, sure, yeah, I could mail it right  
12          now.

13          CHAIRMAN MORDAS: All right. Any more questions for  
14          Ms. Bodner?

15          BOARD MEMBER FINDLEY: No.

16          MS. H. BODNER: Thank you.

17          CHAIRMAN MORDAS: Thank you very much.

18          Ma'am, with the child, are you on the list for public  
19          speaking?

20          MS. WALTER-PANKO: Yes, I am.

21          CHAIRMAN MORDAS: We're willing to push you up in line  
22          a little bit if you care to speak.

23          MS. WALTER-PANKO: Okay.

24          CHAIRMAN MORDAS: Come on up and introduce yourself.

25          MS. WALTER-PANKO: Okay.

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2           CHAIRMAN MORDAS: State your name for the record.

3           MS. E. WALTER-PANKO. My name is Erin Walter-Panko. I  
4 live at 61 Daisy Lane in Montgomery.

5           CHAIRMAN MORDAS: Thank you, Erin.

6           MS. E. WALTER-PANKO: No problem.

7           So I have known Ozzie and Helen for about 29 years,  
8 the date they moved in. I actually do know, your daughter,  
9 Dottie. I used to ride with her, so I'm very familiar with  
10 the area.

11           Since the day that Ozzie moved in he's always had  
12 horses there. From what I understand, it's never been an  
13 issue. I've actually -- I've met the Bonifaces many, many  
14 times. Never been any issues with them.

15           You know, I actually have some -- there's stuff that  
16 was recently published in the newspaper. I know the  
17 biggest issue right now is the contamination of the pond  
18 which, if it was my child, I'd be extremely concerned if  
19 they were swimming in there. There has been a lot of  
20 research showing that E. coli, like every -- every animal  
21 produces strains of bacteria that could cause E. coli, but  
22 the ones that is produces by horses does not cause  
23 intestinal to make you sick. Actually, there was an  
24 article published by Horse Nation stating that horse manure  
25 does not produce E. coli, Salmonella which commonly cause

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2 issues in ponds. This is actually something that was  
3 published in the area. This is in Kingston, New York.

4           Again, I would be concerned, too, if my child was  
5 swimming, you know, and there was contamination there. I  
6 believe there is no scientific evidence supporting that the  
7 horses are actually causing that.

8           Also, I know right now we're trying to make sure it's  
9 still zoned agricultural. I think the issue is very  
10 important, especially in the horse community. I know  
11 there's a lot of people coming in that move to our area. I  
12 think it's just important that we maintain that in our  
13 community for educational purposes.

14           Any questions for me?

15           CHAIRMAN MORDAS: How much do you know about algae?  
16 You seem to know about coliform a lot. What do you know  
17 about algae?

18           MS. E. WALTER-PANKO: Yes. I'm a pharmacist, as a  
19 doctor. So is my husband.

20           So even if you just do a quick Google search, the  
21 first thing that comes up, it shows that horses cannot  
22 cause, cannot cause, you know, E. coli, like the E. coli.

23           CHAIRMAN MORDAS: But there is a difference between  
24 E. coli and algae.

25           MS. E. WALTER-PANKO: There is, but there is no

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2 evidence supporting horses producing that.

3           CHAIRMAN MORDAS: Any questions?

4           BOARD MEMBER FINDLEY: I don't for her, but I do have  
5 a question about the test, the tests that were given to us.

6           I was wondering when it rained prior to these tests.  
7 Does anybody know?

8           MS. H. BODNER: That was done --

9           BOARD MEMBER FINDLEY: Because it --

10          MS. H. BODNER: All of the tests were done very soon  
11 after a rain, and early in the season.

12          CHAIRMAN MORDAS: Any questions for Erin?

13          BOARD MEMBER FINDLEY: I'm sorry. No.

14          CHAIRMAN MORDAS: Thank you very much.

15          MR. MOGEL: If I could add, just again, the Board  
16 should carefully consider the testimony that's coming out,  
17 the documents that are being produced to the Board. The  
18 Board needs to take into consideration what's specifically  
19 before the Board, an appeal of a violation of code  
20 pertaining to the number of animals. What's not  
21 necessarily before the Board is the issue of how dangerous  
22 runoff is, whether the contaminant might be E. coli,  
23 whether it could be contaminant by E. coli. However, I  
24 haven't raised any issues here because it is relevant to  
25 the overall issue. If the Board were to elect to resolve

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2 this issue with the granting of a variance, all this  
3 evidence is relevant. But I just want the Board to keep a  
4 close eye, not to go too far afield with the evidence and  
5 testimony that's being presented at this point on these  
6 issues.

7           CHAIRMAN MORDAS: Thank you, Steve.

8           Miss Veronica Boniface.

9           MS. V. BONIFACE: Good evening.

10          CHAIRMAN MORDAS: Please state your name and address.

11          MS. V. BONIFACE: Veronica Boniface. I live directly  
12 across from the pond and I've been there for 56 years.

13           It's heartbreaking not to see the children not to be  
14 able to swim like they have been all these years. And they  
15 are lovely neighbors. We've never had any problems. You  
16 know, it's heartbreaking after all these years to see that.

17           And there are way too many horses on such a small  
18 parcel, I believe.

19          CHAIRMAN MORDAS: Thank you.

20          MR. MOGEL: You should state your name and address.

21          MS. V. BONIFACE: 33 Birchwood Drive, and it's a Pine  
22 Bush address.

23          CHAIRMAN MORDAS: Thank you, Veronica.

24          MS. V. BONIFACE: Thank you.

25          CHAIRMAN MORDAS: Okay. Next on the list is Mr. Mark



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2 Hufcut.

3           MR. M. HUFCUT: Mark Hufcut, 26 Grandview Drive,  
4 Bloomingburg, New York.

5           I, too, grew up at that pond. My cousins and I, my  
6 family, as long as I can remember, we enjoyed that pond.  
7 Many family parties there, graduation parties, birthday  
8 parties.

9           And I'll reiterate what Veronica just said. It really  
10 sad to go there this summer and not be able to swim in it.  
11 We can't let the kids in it. My kids are grown now. They  
12 swam in it many years, as I did. They grew up all around  
13 that pond. It was like our second home.

14           I am not a neighbor of Ozzie, but I've heard wonderful  
15 things about him. Nobody's ever had a problem.

16           I believe this manure pile has become an issue with  
17 the runoff. And if you all take a ride by there you will  
18 see it runs directly into that pond.

19           You know, I don't know what to say other many  
20 generations have spent summers there, ice skating parties,  
21 and to see it now, it's kind of devastating for all of us.

22           CHAIRMAN MORDAS: Any questions for Mr. Hufcut?

23                   (No verbal response.)

24           CHAIRMAN MORDAS: Thank you, sir.

25           MR. M. HUFCUT: Thank you.

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2           CHAIRMAN MORDAS: Mr. Joe Walter.

3           MR. J. WALTER: Hello, I'm Joe Walter. I live at 54  
4 North Road, Bloomingburg, New York.

5           As I understand it, there's a lot of commentary going  
6 on here about the condition of the pond. Originally, I  
7 thought this was more of a zoning issue. Is that correct?  
8 Or it's not, with the ...

9           MR. MOGEL: What this is, there is a violation that  
10 was issued by the building inspector pursuant to the  
11 statute. An appeal was raised to that violation. So the  
12 Board is acting in its appellate capacity as to whether the  
13 violation is merited. And the Board has the discretion of  
14 upholding the determination, overturning the determination,  
15 or the Board can consider the granting of a variance.

16          MR. J. WALTER: Okay. I'll be very brief.

17          I've heard a lot of various issues and changes in the  
18 zoning lately, over the years. I don't know if it's  
19 agricultural now or it should remain that way. I don't  
20 believe that we should be changing our zoning for, you know  
21 -- a lot of people like this change in the zoning, but yet  
22 we're Mamakating, New York, not Westchester, we're not  
23 Manhattan, we're not Brooklyn. You know, people come up  
24 here, they want a rural way of life. I don't think we  
25 should be making a habit of just, you know, at whims, you

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2 know, taking agricultural land or residential or making it  
3 high density. I just want to make sure that it's kept in  
4 perspective. I've seen it --

5           MR. MOGEL: The matter that is before the Board has  
6 nothing to do with changing of the zone.

7           MR. J. WALTER: Okay.

8           MR. MOGEL: And that is not under discussion. The  
9 Board doesn't have discretion to change the zoning, anyway.

10          MR. J. WALTER: Okay. Very good, then.

11          I've heard a lot of issues here, discussion about the  
12 pond, they found some bacteria growing there. I heard  
13 Mr. Boniface discuss about the three structures or the  
14 houses nearby the pond that they use. I do recall another  
15 structure.

16          I've known Helen and Ozzie for 27 years. I've known  
17 them before they moved to their current location. Our  
18 children all have taken horseback riding lessons there.  
19 They have been very good in teaching them responsibility,  
20 how to care for animals and being respectful of the  
21 environment.

22          There was a structure, another structure, that I  
23 didn't hear brought up by Mr. Boniface. That was on the  
24 other side of Ozzie, very close to the culvert. That  
25 structure, I understand, has been razed recently. I don't

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2 know if it was a year ago or two years ago, but it used to  
3 be a structure that people used to live in. I understand  
4 it's still over there, and it was cleared out. I'm not  
5 sure what was done to that property, but it was quite close  
6 to that culvert where they are now saying they are having  
7 some issues with bacteria, possibly. So there could be  
8 some correlation here between that.

9           Ozzie does have manure, you know, from the horses, and  
10 a lot of that manure is, I would say in the middle of it,  
11 it's good earth and good dirt. I've been using that dirt  
12 for the past seven years in my garden in Bloomingburg,  
13 which was mostly just clay and rock. Now, I have a  
14 beautiful garden. Every year I bring in fresh soil from  
15 Ozzie's farm to cultivate. It's great soil now. So, you  
16 know, as they say, I guess the earth works its magic with  
17 that. It turns into soil. And, you know, if you can get  
18 it, you should be happy to get it. I would just think you  
19 should takes more consideration to other changes in the  
20 area other than Ozzie and Helen's farm that's been there.  
21 There's been some other changes in the area that affect  
22 water flow that are maybe bringing the concerns.

23           Anyone have any questions for me?

24                   (No verbal response.)

25           MR. J. WALTER: Okay. Thank you very much.

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2           CHAIRMAN MORDAS: Thank you.

3           MR. J. WALTER: Appreciate it.

4           CHAIRMAN MORDAS: Suzanne Bergstein.

5           MS. S. BERGSTEIN: Suzanne Bergstein, 6 Edgewood  
6 Drive, New Paltz, New York.

7           I do have horses, not Ozzie's, but I have my own  
8 horses. I've known Ozzie and Helen for 14 years. He's  
9 helped me a lot with my own horses. I've been to his place  
10 a lot working my own horses and things like that.

11           His place is spotless, it's clean. The horses are  
12 incredibly taken care of. They aren't just show horses,  
13 they're his pets. He takes great care of them. There's no  
14 smell. The barns are clean, the water buckets are clean.  
15 Even where the manure is, there's no smell, it doesn't  
16 stink. And he's had these horses. He's always had, since  
17 I've known him, about, between seven, five to eight horses,  
18 always. He's never had less than five since I've known  
19 him.

20           And as far as the algae, the algae bloom that we're  
21 talking about, in New Paltz we've had the same issue with  
22 some of our ponds, and of course, the Wallkill. But that's  
23 been an issue all around. That's not -- I don't think it's  
24 related to the horses, otherwise, you would have had this  
25 previously. This wouldn't just come up now. But I do know

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2   that in our area and in my hometown, we have problems, as  
3   well. We've had algae issues. We did not have horses, but  
4   we did have the algae, those blooms that you're talking  
5   about. We didn't have our water tested. But it does  
6   happen, but it's not from horses.

7           Any questions?

8           CHAIRMAN MORDAS: Did you ever figure out where the  
9   algae bloom came from?

10          MS. S. BERGSTEIN: In my own place?

11          CHAIRMAN MORDAS: Yes.

12          MS. S. BERGSTEIN: No, I didn't. Some people blame it  
13   on the heat, that it's been real warm and stagnant, and a  
14   lot of the rainfall will cause that, but I don't know.

15          BOARD MEMBER DAWKINS: So to clarify, we're talking  
16   about regular pond algae. We're not talking about the  
17   toxic bloom.

18          MS. S. BERGSTEIN: Where I --

19          BOARD MEMBER DAWKINS: We're not talking about --

20          MS. BERGSTEIN: But in New Paltz we have had those  
21   that you're talking about. The Wallkill, we've had three,  
22   and that's not from horses.

23          Any questions?

24          CHAIRMAN MORDAS: Any questions from the Board?

25          BOARD MEMBER FINDLEY: No.

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2           CHAIRMAN MORDAS: Thanks.

3           Bianca Conway.

4           MS. B. CONWAY: My name is Bianca Conway. I currently  
5 live at 276 Purgatory Road in Campbell Hall. I'm a  
6 resident from New York City.

7           I've known Ozzie and Helen for a number of years. He  
8 was actually my coach. Ozzie was actually my coach. I do  
9 barrel racing, many competitions throughout the year. I've  
10 stayed at his house. I'm from New York City. You know,  
11 it's a long drive, so I have stayed at his house many  
12 weekends. I've seen the way that he manages his property  
13 and, you know, he does everything right. I mean right down  
14 to managing his horses, to managing the water that  
15 infiltrates his property from both sides. I can remember a  
16 time where his entire basement was under water because of  
17 the amount of water that was coming in from both sides of  
18 the property.

19           Now, the manure pile that they're speaking of is  
20 actually a berm. It's actually earth now. It's been there  
21 for so many years that it's dirt. It doesn't have any  
22 contaminants in it. It's actually free of contaminants  
23 because the composting process actually eliminates free  
24 radicals from the soil. And that's a proven process. Many  
25 farmers, many horse farms actually include the process of

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2   composting. So if it were an issue, then why would it be a  
3   farming practice included, you know, in agricultural  
4   practice.

5           I'm from the city. I don't know if anybody has, like,  
6   you know, seen the Holmberg Drive or East River. You see  
7   algae all the time there. That's fresh water and it's  
8   meeting, you know, other bodies of water, you know. But  
9   people swim in it, they take their boats in it, in and out.  
10   But this pond, you know, I've never seen it where it has,  
11   like, you know, covered in algae. I've been, you know,  
12   coming to Ozzie and Helen's place, God, so many years, you  
13   know. It's a body of water. It happens. And, you know,  
14   where you get that water from flow, you know, should be  
15   looked at. You know, does it come from -- we don't know  
16   where it's coming from. There's nothing that they can  
17   prove to say that it would be from the horses.

18           Any questions?

19           CHAIRMAN MORDAS: I do, but I think it's better asked  
20   of Mrs. Micinowski. But you brought up something that I  
21   need to ask a question of them about.

22           But thank you very much.

23           Anybody from the Board have any questions?

24                   (No verbal response.)

25           CHAIRMAN MORDAS: Thank you, Ms. Conway.



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2           Sherry Charney.

3           MS S. McCHESNEY: Hi. My name is Sherry McChesney. I  
4 live at 463 Burlingham Road in Bloomingburg, New York.  
5 I've lived there, at my current residence, for almost 30  
6 years now. I have actually known Helen and Ozzie about 17,  
7 18 years now.

8           I just want to say on their behalf that as long as  
9 I've known them, they've always had horses, five to ten,  
10 always. Whenever I've gone to the property, it's a lot,  
11 the property was always clean. They love their animals and  
12 they're well taken care of.

13           That's it. Thank you.

14           CHAIRMAN MORDAS: Any questions from the Board?

15                               (No verbal response.)

16           CHAIRMAN MORDAS: Thank you.

17           James Boniface, Jr.

18           MR. J. BONIFACE, JR.: My name is James Boniface, Jr.  
19 I live at 41 Birchwood Drive.

20           Ozzie and his wife or girlfriend, I've never had any  
21 problems with them. They've always been kind, all that  
22 stuff. My only concern is the manure pile to the pond,  
23 that's all.

24           Also, my house has a shallow well. I don't know if  
25 this will affect it, the runoff from the horses. It's been

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2   there since the 1960s. It's always been like that. My  
3   grandfather dug it and I think he used it to supply his  
4   house back in the day. That is only my concern. I have  
5   nothing against them. And that's about it.

6           CHAIRMAN MORDAS: Where is that shallow well in  
7   conjunction with the pond?

8           BOARD MEMBER DAWKINS: I'd kind of like to see  
9   where --

10          CHAIRMAN MORDAS: We're going based on the tax map.

11          BOARD MEMBER DAWKINS: Where is the pond?

12          MR. J. BONIFACE, JR.: Right here.

13          MR. J. BONIFACE, JR.: I just thought about it today,  
14   actually. But I haven't done research on it, it's just one  
15   of my concerns. And the main thing is the runoff from the  
16   pile, really, the horse manure.

17          BOARD MEMBER RAMPE: The recommendation for testing  
18   your own well water is right here, for coliform.

19          MR. J. BONIFACE, JR.: Yeah, I'm going to go --

20          BOARD MEMBER RAMPE: You should definitely do that.

21          MR. J. BONIFACE, JR.: I've been there probably four  
22   years now, but ...

23          CHAIRMAN MORDAS: It's important with a shallow well.

24          BOARD MEMBER RAMPE: Yes.

25          MR. J. BONIFACE, JR.: Personally, I've had no

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2 problems at the house. I don't drink it, though.

3           CHAIRMAN MORDAS: Any questions from the Board?

4           BOARD MEMBER FINDLEY: No.

5           BOARD MEMBER MORREALE: No

6           CHAIRMAN MORDAS: Thank you, Mr. Boniface.

7           CHAIRMAN MORDAS: James Senior.

8           MR. J. BONIFACE, SR.: Hi. I'm James Senior. 123

9 Birchwood Drive. I'm also an owner of the pond.

10           My question is I'm not exact, but how many horses are  
11 they allowed to have on 2.5 acres?

12           CHAIRMAN MORDAS: The current agricultural zoning is  
13 one horse per two acres.

14           MR. J. BONIFACE, SR.: So to have five, eight, twelve,  
15 would be twelve times the allowed amount on that particular  
16 piece of property?

17           CHAIRMAN MORDAS: If they were to propose a new horse  
18 farm in your neighborhood, yes.

19           MR. J. BONIFACE, SR.: Okay. But that's the real  
20 problem. Whether the pond is polluted or there's twelve  
21 horses, they have two paddocks and not one stitch those  
22 paddocks have grass on it. For all the people I know with  
23 horses, it takes one acre, per horse, of grass to sustain  
24 that horse. So they must -- I mean they're probably  
25 feeding them a lot of hay to make that happen, but there's

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2   so many horses, the grass can't grow. And that's the  
3   reason there's so much dust and so much dirt and so much  
4   runoff. And it may not be the stuff in the pile that grows  
5   his garden that good because that also helped the algae  
6   grow if it grows his garden that good. So it's probably  
7   the fresh manure that's on the ground that's running off.  
8   And it bothers me that my grandchildren can't go to that  
9   pond because of this. And we have our swing sets right  
10  there, we have a merry-go-round there, we have a pavilion  
11  there. And it bothers me deeper than I don't think -- I  
12  care about the horses. I like seeing them there. Maybe  
13  two on what they have. But twelve is ridiculous.

14           And like I said, they've been good neighbors, but when  
15  it comes to this point, you've got to do something.

16           CHAIRMAN MORDAS: All right. For the record, the  
17  Micinowskis have said that they have seven horses there  
18  currently.

19           MR. J. BONIFACE, JR.: Currently, there's seven. But  
20  sometimes there's ten and sometimes there's eleven when  
21  they had other horses there. I mean are they keeping  
22  horses there or did they own all seven horses? I don't  
23  know. That's -- you know, this is what we've got to look  
24  at and this is what this meeting is about. This meeting is  
25  about their property and how many horses on this little

1                   - RE: MARY HELEN MICINOWSKI -

2 tiny lot that is wet because it's all gravel. And there's  
3 a pond back there, there's water back there, so maybe it's  
4 not the perfect piece of property for a horse farm.

5           That's all I have to say.

6           CHAIRMAN MORDAS: Any questions from the Board?

7           BOARD MEMBER FINDLEY: No.

8           MR. J. BONIFACE, JR.: Thank you.

9           CHAIRMAN MORDAS: Thank you.

10           Anybody else from the audience that would like to step  
11 up and comment on this applicant?

12           Step on up and introduce yourself, Mr. Lesser.

13           MR. C. LESER: Chris Leser.

14           CHAIRMAN MORDAS: What address?

15           MR. C. LESER: Burlingham.

16           I have there question, too. This word here, it says  
17 for number of horses per acre. Growing up around here, the  
18 rule of thumb was always one horse, one cow, whatever, per  
19 one acre. That's what they seem to need to eat.

20           As a sidebar, as an example, I think when you go  
21 outside of Pine Bush, is it the Johns farm as soon as you  
22 go out past, Pine Bush, on the left? They had, I'm going  
23 to say 60 head of cows. They barely had 40 acres of  
24 property. So they had to subsidize that with grains and  
25 barley from the beer manufacturers of the city. If you can

1                   - RE: MARY HELEN MICINOWSKI -

2 recall, how that used to smell wonderful. Worse than  
3 manure. So my question here is how many horses are we for  
4 one acre? I grew up. I never saw anything in the markets  
5 or agricultural law. One acre per animal. So we're  
6 actually looking for here, it says a number of horses per  
7 acre.

8           CHAIRMAN MORDAS: All right. It's actually, current  
9 regulations in the town, per code, is one 1200 pound horse  
10 per two acres. That's the current code.

11           MR. C. LESER: It's as much for the horses. I assume,  
12 the public that's here and on the side of the horse people,  
13 sounds like they're doing an excellent job taking care of  
14 the horses, but it does sound like there's insufficient  
15 property for them to graze. I know they should be fed on  
16 the side whatever that is, alfalfa, Timothy hay, the other  
17 barleys or whatever. I am not aware of that. I don't  
18 know. I guess the question here is do they have too many  
19 horses by the town code.

20           It's not a sidebar. When you leave Burlingham and you  
21 go out towards Thompson Ridge, on the left-hand side  
22 there's two horses in this little paddock. Maybe it's a  
23 hundred foot square. I believe it's the same horses that  
24 have been there right through last year, this year, winter,  
25 everything. There's not a blade of grass. It's just one

1                   - RE: MARY HELEN MICINOWSKI -

2 pile of mud. Those poor animals are out there without a  
3 walk-in barn. There's just one scruffy tree that barely  
4 has any leaves on it, and those two poor animals are out  
5 there 24/7. I don't know what the hell they can eat. Eat  
6 the mud, eat the dirt?

7           I'm just curious about the number. It sounds like the  
8 number of horses are just too many. It sounds like they  
9 are taking care of the horses, but ...

10           Thank you.

11           CHAIRMAN MORDAS: Thank you, Mr. Leser.

12           MR. O. MORRIS: May I say something?

13           CHAIRMAN MORDAS: Yes, sir.

14           MR. O. MORRIS: I'm Ozzie Morris, 49 Birchwood Drive.  
15           When we moved into this property we were told we could  
16 have this amount of horses. Each horse -- and I'm sorry  
17 that you see bad horses.

18           MR. C. LESER: I didn't --

19           MR. O. MORRIS: You see bad people.

20           But my horses are two horses in each paddock. I asked  
21 you to come and visit and I wanted to show you how it was  
22 laid out. There's two horses here, there's two horses  
23 there, there's two horses there. During the rain season,  
24 we get it now, unfortunately, I had to make a berm because  
25 the neighbor's water would run through my property up to my

1                   - RE: MARY HELEN MICINOWSKI -

2 knees. It went into the garage, it filled my basement up  
3 three flights of stairs, I mean three levels of stairs, so  
4 I made the berm.

5           Yes, I don't have grass, but I go through 85 bales  
6 every two weeks. My horses eat better than any horse  
7 around. If you look at my horses, none of them are skinny.  
8 They're all take care of.

9           Every week I take the tractor and yolk rake my  
10 paddocks. When it rains, there's water all over the place.  
11 So when water runs, as they say, the manure runs with it.  
12 If it's raining when the horses are out today, it's rain,  
13 it's not manure all over the place. They know that I rake  
14 that place more than most people. I spend 50 hours a month  
15 dragging that rake, dragging the paddocks.

16           My main thing is I know my animals, I train them from  
17 when they were babies. Yes, I bring horses to train for  
18 people. Sometimes, when you see a couple horses there for  
19 a week or two, yeah. But that manure pile was put there to  
20 save my property. It was always under water. If you look  
21 at my property, you go there tomorrow, the one paddock is  
22 under water exactly nine inches deep. I can't control  
23 water that comes from the swamp. If I knew it was like  
24 that before I bought it I wouldn't have bought the  
25 property. But I love my animals, I treat them well. I try



1                   - RE: MARY HELEN MICINOWSKI -

2 not to be mean to my neighbors. I hope that they don't  
3 think I'm mean or nasty to them.

4           And I did not take manure 200 feet and put it in their  
5 pond. I didn't build any trenches. Those trenches were  
6 there when we moved. I was told to clean them and make  
7 sure they don't clog up. So every time the grass grows, I  
8 weed wack it, I cut my grass. Matter of fact, I just cut  
9 my grass today. I cut my grass two times a week so there's  
10 no junk on my property. When we moved there the neighbors  
11 that was there before us, they had kids' toys, junk dumped  
12 all over the place.

13           So the main thing is these horses I think should stay  
14 where they are because I worked hard to keep them.  
15 Whatever the rules were, we were told that X amount of  
16 horses were there when we moved there.

17           And you're welcome to come and check. We waited two  
18 weeks for you guys to come visit, but nobody showed up  
19 except for the DEC.

20           BOARD MEMBER DAWKINS: I was.

21           MR. O. MORRIS: Oh, you were there? Okay.

22           BOARD MEMBER RAMPE: Today.

23           MR. O. MORRIS: Anyone have any questions for me?

24           CHAIRMAN MORDAS: Yes. I noticed in this Short  
25 Environmental Assessment Form there is an addendum and it

1                   - RE: MARY HELEN MICINOWSKI -  
2 primarily discusses stormwater discharge from adjacent  
3 properties to the north and west. Basically, over time you  
4 are experiencing worse runoff problems than when you  
5 initially purchased the property.

6           MR. O. MORRIS: Yes.

7           CHAIRMAN MORDAS: Besides the berm, have you tried any  
8 kind of remedies to this?

9           MR. O. MORRIS: Yes, I did.

10          CHAIRMAN MORDAS: It seems like a sheet water problem.

11          MR. O. MORRIS: Yes, I did. I brought a tractor from  
12 the Bonifaces and I've been digging, like, a little trench  
13 so my water that comes from my property stays on my  
14 property. When it rains, the front paddock, the water hits  
15 it and just goes to wherever that ditch is. But if you go  
16 and see my arena, you can see the arena, then it dips down,  
17 then the manure pile is at least 40 feet away. My manure  
18 pile is 280 feet from the road because I went out to check  
19 it. It's not where I can take manure and dump it. If  
20 something's doing something to their water, it's not my  
21 fault.

22          I really feel bad for you guys because I would like to  
23 see kids swim there, too. And I see the kids swimming in  
24 there and now I don't see them.

25          But I was told by someone that they accused me of

1                   - RE: MARY HELEN MICINOWSKI -

2 dumping manure, that's why they can't swim. I didn't bring  
3 anything. I mean I moved up here so I can have a better  
4 life and retire, train horses, and that's what I did.  
5 That's what I've been doing for 20 years.

6           CHAIRMAN MORDAS: Also mentioned in this addendum was  
7 Mr. Ken Boniface asking you to dig a dry well.

8           MR. O. MORRIS: Yes.

9           CHAIRMAN MORDAS: Have you done that?

10          MR. O. MORRIS: No, I will not. And the only reason I  
11 won't is because the water was coming from his property to  
12 me. And he said, We used to swim in that area and so if we  
13 dig a dry well the water the will come on your property. I  
14 said: I don't need your water. I want the water to stay  
15 on his side. That's why I put the manure there.

16          CHAIRMAN MORDAS: Which Boniface property is that?

17          MR. O. MORRIS: That's Kent's.

18          BOARD MEMBER DAWKINS: So which one is it relative to  
19 your house? Is it north and west or is it south and --

20          MR. O. MORRIS: It is north because that was, it used  
21 to flood everything out all the time. It used to come  
22 straight to us, right to my house. And my basement, water  
23 pumps out of that basement every day, 365 days a year;  
24 every day. And I don't complain about it. I was told, Oh,  
25 you got wastewater coming down the street. No, it's not

1                   - RE: MARY HELEN MICINOWSKI -

2 coming from the street, it's coming from my basement  
3 because I can't get rid of it. It just runs all the time.  
4 If you look at my property, and you were there, you saw the  
5 front paddock, it's under water. It takes almost two  
6 months for that to dry before I put a horse in it. So I  
7 use the back paddock. So I'm not mad about it. I brought  
8 the property, okay, I got snookered. You know, I thought I  
9 was buying a place where I could be comfortable. I used to  
10 be at stables where people were mean to horses. I am not  
11 mean. So when I found this property, we had the other  
12 property. It was going to snow. We moved in on Halloween  
13 real quick. Four weeks later it snowed. So we got lucky,  
14 we found the place. Unfortunately, 21 years later, there's  
15 an issue. And I'm sorry for the issue. I didn't do it.  
16 I'm telling you I didn't do it.

17               And I just don't want to lose my animals because I've  
18 had them forever. I've trained horses. And it takes three  
19 years to train a horse to go to the World's Finals, three  
20 years. And I had to take three horses to train, and that's  
21 what I did. I teach people to ride. I take little kids  
22 that can't ride. I give them confidence, I give them  
23 perseverance to go out there and do the best they can.

24               So now I'm in my senior years and I'm told this is  
25 going to be going way. I don't think it's fair, I really

1                   - RE: MARY HELEN MICINOWSKI -

2 don't.

3           That's all I have to say about this.

4           CHAIRMAN MORDAS: Thank you.

5           MR. O. MORRIS: All right.

6           CHAIRMAN MORDAS: Any questions?

7                   (No verbal response.)

8           CHAIRMAN MORDAS: Anybody else? Mr. Boniface.

9           MR. S. BONIFACE: I made this offer, an alternative.  
10           Steve Boniface, 24 Crystal Lake Road, White Lake,  
11 New York, 12786.

12           We've looked at this a couple of different ways for  
13 the last year or so, and there is a way to solve this  
14 problem. It would mean putting another culvert through our  
15 property alongside of our pond and running his water down  
16 below our dam so his water, the water from his horses,  
17 didn't run into our pond. It's an expensive alternative.  
18 I would be willing to share the cost with Ozzie to do it.  
19 When I looked into it eight months ago, the price of the  
20 culvert alone was between eight and nine thousand dollars.  
21 We could install it. We have the equipment to install it.  
22 But if that's an alternative, I would like them to share  
23 some of that expense. So it's just offering an  
24 alternative. Maybe Ozzie, I don't know if he's in a  
25 position to do anything like that or willing to do that.

1                   - RE: MARY HELEN MICINOWSKI -

2           CHAIRMAN MORDAS: All right. Mr. Boniface and Ozzie,  
3 would you be willing to leave your phone numbers with Kyra?

4           MR. O. MORRIS: Yes, I will.

5           CHAIRMAN MORDAS: All right. I don't want them  
6 advertised to the public so just approach her when you can  
7 and leave your phone numbers with her.

8           I like the sound of compromise. Thanks, Mr. Boniface.  
9 All right. Anybody else from the public?

10                                   (No verbal response.)

11           CHAIRMAN MORDAS: All right. Folks, it's a lot of  
12 information here to digest and it's a very emotional  
13 subject. I would like to ask of the Board, for myself, and  
14 maybe you feel the same way as I do, that we should extend  
15 this public hearing.

16           BOARD MEMBER DAWKINS: Matt, I don't think we can  
17 possibly close the public hearing until we receive the DEC  
18 report that's pending.

19           CHAIRMAN MORDAS: I want to discuss first and further  
20 with the DEC about this situation. I'm not trying to drag  
21 my feet. I just feel that it would be improper for me  
22 personally. I don't feel I can make a good judgment right  
23 now.

24           BOARD MEMBER MORREALE: Yes. As we determine the  
25 impact on the neighboring property we have to know the

1                   - RE: MARY HELEN MICINOWSKI -  
2 neighboring properties are actually being impacted by this.  
3 Hopefully, the DEC will clarify that.

4           BOARD MEMBER DAWKINS: I would also, if you're going  
5 to be talking about compromise, I think it might be worth  
6 talking to the town road supervisor and asking if the  
7 culvert that goes under the road, if that's the only place  
8 for it, if there's a more reasonable place that might  
9 provide some relief to the situation.

10          CHAIRMAN MORDAS: I think that's a good idea.

11          MR. MOGEL: Sir, do you consent to having the public  
12 hearing open, continue to stay open?

13          MS. MICINOWSKI: Yes.

14          MR. O. MORRIS: Yes.

15          CHAIRMAN MORDAS: Do we need a motion to keep the ...

16          MR. MOGEL: Yes.

17          CHAIRMAN MORDAS: All right. Do I have a motion to  
18 extend the public hearing at least until next month?

19          BOARD MEMBER MORREALE: I'll make that motion.

20          BOARD MEMBER FINDLEY: I'll second.

21          CHAIRMAN MORDAS: All in favor?

22          BOARD MEMBER DAWKINS: Aye.

23          BOARD MEMBER RAMPE: Aye.

24          BOARD MEMBER FINDLEY: Aye.

25          BOARD MEMBER MORREALE: Aye.

1                   - RE: MARY HELEN MICINOWSKI -

2           CHAIRMAN MORDAS: Aye.

3                   (The motion was approved and carried.)

4           CHAIRMAN MORDAS: I feel you're all good, honest  
5 people and I appreciate you coming up and making your  
6 statements. We'll try not to drag this out too long, but I  
7 just feel we need some more information here.

8           Thank you all very much.

9                   (Time noted: 9:59 p.m.)

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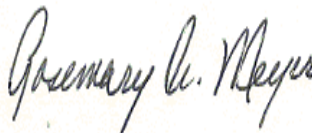
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REPORTER'S CERTIFICATION

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 Mary Helen Micinowski, 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: September 10, 2018

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X  
JoAnn Hegarty & Forrest Greswold  
Area Variance  
Tax Map Section 55; Block 1; Lot 7 & 8  
Neighborhood Residential Zone  
----- X

Town Hall  
Town of Mamakating  
July 28, 2018  
9:00 P.M.

ZONING BOARD MEMBERS :

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

Also Present: JoAnn Hegarty, Applicant  
Forrest Griswold, Applicant

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

Reported by: Rosemary A. Meyer

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           CHAIRMAN MORDAS: Next on the agenda, Mrs. JoAnn  
3 Hegarty and Mr. Forrest Greswold.

4           Please step up. Give your address to Rosemary and  
5 please refresh us as to your situation.

6           MS. HEGARTY: JoAnn Hegarty, 199 North Shore Drive,  
7 Yankee Lake, Wurtsboro.

8           MR. GRISWOLD: Forrest Griswold, 199 North Shore  
9 Drive, Wurtsboro.

10          MS. HEGARTY: So we're appearing to request an area  
11 variance for a storage shed that is closer to the road than  
12 the primary structure. We originally -- it was originally  
13 on vacant land. That's been changed because now the whole,  
14 the two lots are in both of our names. But now we now have  
15 a situation where, again, the shed is closer to the road  
16 than the primary structure, mostly because the road turns.

17          And we sent out our public hearing notices. They were  
18 mailed the week of July 9th and received July 13th. We got  
19 16 back out of the 25 sent, and I've returned those to  
20 Kyra.

21          I think that's it, unless you have more questions.

22          CHAIRMAN MORDAS: Well, first, I just need to ask Kyra  
23 were the public announcements done in a timely fashion to  
24 our newspapers of choice? And also, were the mailings does  
25 to your satisfaction?

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           MS. PLATT: Yes.

3           CHAIRMAN MORDAS: Thank you.

4           Any questions from the Board?

5                   (No verbal response.)

6           BOARD MEMBER DAWKINS: I'd like to make a motion that  
7 we open the public hearing.

8           MR. MOGEL: Very good.

9           CHAIRMAN MORDAS: I'll second that.

10          All in favor?

11          BOARD MEMBER DAWKINS: Aye.

12          BOARD MEMBER RAMPE: Aye.

13          BOARD MEMBER FINDLEY: Aye.

14          BOARD MEMBER MORREALE: Aye.

15          CHAIRMAN MORDAS: Aye.

16                   (The motion was approved and carried.)

17          CHAIRMAN MORDAS: All right. Is there anybody from  
18 the public would like to comment on this application?

19                   (No verbal response.)

20          CHAIRMAN MORDAS: Okay. Any questions from the Board?

21                   (No verbal response.)

22          CHAIRMAN MORDAS: Kent, you look spent.

23          BOARD MEMBER FINDLEY: Is there any algae bloom  
24 involved in this?

25          CHAIRMAN MORDAS: All right.

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           BOARD MEMBER DAWKINS: Was the shed under water this  
3 week?

4           MS. HEGARTY: No.

5           CHAIRMAN MORDAS: We're talking about one lot now.

6           MS. HEGARTY: Yes, it's one lot that's been -- I mean  
7 it was -- basically, it was not exactly in the same name,  
8 essentially is what happened. So yes, it's one lot now,  
9 under one deed, and in both of our names. It's been  
10 completed.

11          CHAIRMAN MORDAS: All right. Did you supply us with  
12 that deed?

13          MS. HEGARTY: Yes.

14          MS. PLATT: I have the deed.

15          MS. HEGARTY: Yes. Yes, we have. It's in the  
16 application.

17          MR. MOGEL: Pardon me. These are the two lots?

18          MS. HEGARTY: Yes.

19          MR. MOGEL: And now they're a singular lot.

20          BOARD MEMBER DAWKINS: And does this property crosses  
21 the road, as well?

22          MS. HEGARTY: Yes, it does go on the other side of the  
23 road. Yes, it does. It's kind of -- you can kind of see  
24 it, but we didn't. When we copied it, it was too far back.  
25 Yeah, it does go across the road.

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           BOARD MEMBER DAWKINS: Okay. I'd like to make a  
3 motion to close the public hearing.

4           CHAIRMAN MORDAS: I second that.

5           BOARD MEMBER RAMPE: All in favor?

6           BOARD MEMBER DAWKINS: Aye.

7           BOARD MEMBER DAWKINS: Aye.

8           BOARD MEMBER FINDLEY: Aye.

9           BOARD MEMBER MORREALE: Aye.

10          CHAIRMAN MORDAS: Aye.

11                   (The motion was approved and carried.)

12          CHAIRMAN MORDAS: All right.

13          BOARD MEMBER DAWKINS: So how many feet is it between?  
14 This is 75 and this is 80, so we need five. Do we have to  
15 specify five feet or do we ...

16          MR. MOGEL: What do you mean, specify five feet?

17          BOARD MEMBER DAWKINS: So the shed is five feet closer  
18 to the road than the house.

19          MR. MOGEL: You don't have to specify, no.

20          BOARD MEMBER DAWKINS: We don't have to specify.  
21 Okay.

22          CHAIRMAN MORDAS: The only request is that the --  
23 well, it's already been constructed so it's not an issue in  
24 regards to adhering to the plan. All right.

25          BOARD MEMBER FINDLEY: Does the garage still exist?

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           MS. HEGARTY: Yes, it does.

3           BOARD MEMBER FINDLEY: Is that closer than the house?

4           MS. HEGARTY: Yeah.

5           BOARD MEMBER FINDLEY: Do you have a variance for  
6 that?

7           MS. HEGARTY: That was built in -- all that stuff was  
8 built by my grandfather.

9           BOARD MEMBER DAWKINS: That's okay. I think what he's  
10 just saying if we're going it, we might as well do it once.

11          MR. MOGEL: I'm not really sure that makes sense. If  
12 the structure was --

13          BOARD MEMBER FINDLEY: I'm just asking.

14          MR. MOGEL: If the structure was already there for  
15 that period of time --

16          MS. HEGARTY: The structure had been there since 1948,  
17 maybe.

18          MR. MOGEL: Yes.

19          MS. HEGARTY: The property has been in our family  
20 since 1941.

21          BOARD MEMBER FINDLEY: And the shed is new?

22          MS. HEGARTY: And I don't know how old the garage is  
23 because I can't remember.

24          MR. MOGEL: And how old is the shed?

25          BOARD MEMBER FINDLEY: Yes, how old is --

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           MS. HEGARTY: The other one --

3           MR. MOGEL: The one --

4           MS. HEGARTY: 2016.

5           BOARD MEMBER FINDLEY: Oh, okay. Yeah.

6           MS. HEGARTY: Two years.

7           MR. MOGEL: All right.

8           BOARD MEMBER FINDLEY: Now, the picture has a fairly  
9 large deck on that shed.

10          MS. HEGARTY: It's stairs and a deck. It's eight by  
11 fifteen, I think.

12          BOARD MEMBER FINDLEY: Do we have to consider that  
13 footprint at all? I'm just asking because --

14          MS. HEGARTY: I considered it when I did my  
15 calculations.

16          BOARD MEMBER FINDLEY: So the size of the shed is  
17 what, the actual --

18          CHAIRMAN MORDAS: Includes the deck?

19          MS. HEGARTY: Yes.

20          BOARD MEMBER DAWKINS: So --

21          MS. HEGARTY: No, no. I'm sorry. When I did the  
22 calculation, like, how much the shed is and how many acres  
23 the acres are.

24          BOARD MEMBER DAWKINS: But the deck faces the lake not  
25 the road.



1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           MS. HEGARTY: Yes, yes.

3           BOARD MEMBER DAWKINS: The question is --

4           MS. HEGARTY: It's not --

5           BOARD MEMBER DAWKINS: -- the side wall of the shed,  
6 how close it is to the road. So I don't think that affects  
7 that.

8           MS. HEGARTY: No, it doesn't.

9           BOARD MEMBER FINDLEY: Did you get a permit for the  
10 shed?

11           MS. HEGARTY: No. We -- what happened was there was  
12 an existing shed on that vacant land. The roof fell in, it  
13 was looking terrible. The other shed that was there next  
14 door, I don't remember, it was 30 years old, and we took it  
15 down. Then when I took it down there was a big --

16           MR. GRISWOLD: Cement slab.

17           MS. HEGARTY: -- cement slab there. And so what are  
18 you going to do with this giant cement slab? So then we  
19 decided, okay, we put the shed. And I thought because  
20 there was a shed before, and shame on me for being  
21 ridiculous, but I thought we'd be okay, but it clearly is  
22 not. So we're see to try to remedy that whole situation.

23           BOARD MEMBER DAWKINS: So have you resolved the  
24 building permit issue with the Building Department?

25           MS. HEGARTY: Yes. That's all been done.

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           BOARD MEMBER DAWKINS: So that's not outstanding.

3           MS. HEGARTY: Right.

4           MS. PLATT: They're applying to you because the shed  
5 was removed, they put a new shed up. The shed is closer to  
6 the street than the street wall of the house.

7           MS. HEGARTY: Right.

8           MS. PLATT: If you get an approval, you can follow  
9 through with the building permit.

10          MS. HEGARTY: Yeah. We've submitted all the data for  
11 the building permit, so the only outstanding thing is your  
12 approval, actually, for the building permit.

13          BOARD MEMBER DAWKINS: Okay.

14          MS. HEGARTY: That's my understanding, I believe.

15          BOARD MEMBER DAWKINS: So the shed is 75 feet from the  
16 road and the house is 80.

17          CHAIRMAN MORDAS: Eighty. All right.

18          I'd like to --

19          BOARD MEMBER FINDLEY: Is it possible -- oh, there's  
20 an existing concrete slab and you put the shed on it.

21          MS. HEGARTY: Yeah, it's on concrete.

22          BOARD MEMBER FINDLEY: So you wouldn't want to move  
23 the shed, obviously.

24          MS. HEGARTY: No.

25          BOARD MEMBER FINDLEY: You couldn't move it five feet

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2 to alleviate --

3           CHAIRMAN MORDAS: You can eyeball the slab.

4           MS. HEGARTY: No.

5           BOARD MEMBER FINDLEY: Yes.

6           BOARD MEMBER DAWKINS: I'm not even sure that's  
7 practical.

8           MS. HEGARTY: It's not practical.

9           BOARD MEMBER DAWKINS: This is fairly low land, and it  
10 would be putting it in the floodplain.

11           CHAIRMAN MORDAS: I think this is pretty  
12 straightforward.

13           BOARD MEMBER FINDLEY: Okay.

14           CHAIRMAN MORDAS: All right. I'd like a motion to  
15 proceed with voting on granting some relief to the  
16 Applicant from 199-13(c)(3), no accessory structures  
17 located closer than the principal structure -- I'm sorry.  
18 199-13(c)(2), no accessory structures located closer to the  
19 street than the street wall of the principal structure,  
20 except in the case of farm buildings.

21           Do I have a motion to proceed to a vote?

22           BOARD MEMBER RAMPE: I'll make that motion.

23           BOARD MEMBER FINDLEY: I'll second it.

24           CHAIRMAN MORDAS: All in favor?

25           BOARD MEMBER DAWKINS: Aye.

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           BOARD MEMBER RAMPE: Aye.

3           BOARD MEMBER FINDLEY: Aye.

4           BOARD MEMBER MORREALE: Aye.

5           CHAIRMAN MORDAS: Aye.

6                   (The motion was approved and carried.)

7           CHAIRMAN MORDAS: Okay. I need to read the criteria  
8 and then we're going to vote.

9           MS. HEGARTY: Okay.

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

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

20          Cathy.

21          BOARD MEMBER DAWKINS: No.

22          CHAIRMAN MORDAS: Georgia.

23          BOARD MEMBER RAMPE: No.

24          CHAIRMAN MORDAS: Kent.

25          BOARD MEMBER FINDLEY: No.

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           CHAIRMAN MORDAS: Matt.

3           BOARD MEMBER MORREALE: No.

4           CHAIRMAN MORDAS: No.

5           Whether the benefit sought by the applicant can be  
6 achieved by some method feasible for the applicant to  
7 pursue other than an area variance.

8           Cathy.

9           BOARD MEMBER DAWKINS: Yes.

10          CHAIRMAN MORDAS: Georgia.

11          BOARD MEMBER RAMPE: Yes.

12          CHAIRMAN MORDAS: Kent.

13          BOARD MEMBER FINDLEY: Yes.

14          CHAIRMAN MORDAS: Matt.

15          BOARD MEMBER MORREALE: Yes.

16          CHAIRMAN MORDAS: Yes.

17          Whether the requested variance is substantial.

18          I'll say no.

19          BOARD MEMBER DAWKINS: No.

20          BOARD MEMBER RAMPE: What's the question?

21          BOARD MEMBER DAWKINS: Is it substantial.

22          BOARD MEMBER RAMPE: No.

23          CHAIRMAN MORDAS: Kent.

24          BOARD MEMBER FINDLEY: No.

25          CHAIRMAN MORDAS: Matt.

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           BOARD MEMBER MORREALE: No.

3           CHAIRMAN MORDAS: All right. Whether the proposed  
4 variance will have an adverse affect or impact on the  
5 physical or environmental conditions of the neighborhood or  
6 district.

7           Matt.

8           BOARD MEMBER MORREALE: No.

9           CHAIRMAN MORDAS: Kent.

10          BOARD MEMBER FINDLEY: No.

11          CHAIRMAN MORDAS: Georgia.

12          BOARD MEMBER RAMPE: No.

13          CHAIRMAN MORDAS: Cathy.

14          BOARD MEMBER DAWKINS: No.

15          CHAIRMAN MORDAS: No.

16          Whether the alleged difficulty was self-created, which  
17 consideration shall be relevant to the decision of the  
18 Zoning Board but shall not necessarily preclude the  
19 granting of the area variance.

20          I'm going to say yes.

21          BOARD MEMBER DAWKINS: Yes.

22          BOARD MEMBER RAMPE: Yes.

23          BOARD MEMBER FINDLEY: Yes.

24          BOARD MEMBER MORREALE: Yes.

25          CHAIRMAN MORDAS: Okay. In regards to the --

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           BOARD MEMBER FINDLEY: Can just I ask a question  
3 before we vote?

4           CHAIRMAN MORDAS: Sure.

5           BOARD MEMBER FINDLEY: Does this shed have any  
6 utilities?

7           MS. HEGARTY: No.

8           BOARD MEMBER FINDLEY: There's no water, no electric?

9           MS. HEGARTY: No.

10          BOARD MEMBER FINDLEY: No plumbing, no nothing.

11          MS. HEGARTY: No.

12          BOARD MEMBER FINDLEY: Okay.

13          MS. HEGARTY: It's just a storage shed.

14          CHAIRMAN MORDAS: All right. In regards to granting  
15 the Applicant relief from 199-13(c)(2), Kent, how do you  
16 vote?

17          BOARD MEMBER FINDLEY: I vote to grant the relief.

18          CHAIRMAN MORDAS: Matt.

19          BOARD MEMBER MORREALE: I vote in favor of the relief.

20          CHAIRMAN MORDAS: Georgia.

21          BOARD MEMBER RAMPE: I agree with them.

22          CHAIRMAN MORDAS: Cathy.

23          BOARD MEMBER DAWKINS: Yes.

24          CHAIRMAN MORDAS: Yes.

25          MS. HEGARTY: Thank you.

1                   - RE: J. HEGARTY & F. GRIWSOLD -

2           CHAIRMAN MORDAS: All right.

3           MR. MOGEL: You're all good. You have a variance.

4           MR. GRISWOLD: Thank you.

5           MS. HEGARTY: Thank you very much.

6                               (Time noted: 9:11 p.m.)

7                               \* \* \* \* \*

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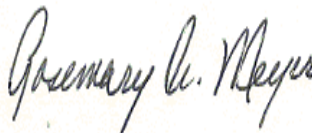
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REPORTER'S CERTIFICATION

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 JoAnn Hegarty & Forrest Greswold, 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: September 11, 2018

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X  
Ambika Conroy  
Area Variance  
Tax Map Section 20; Block 1; Lot 5  
Mountain Greenbelt Zone  
----- X

Town Hall  
Town of Mamakating  
July 28, 2018  
9:11 P.M.

ZONING BOARD MEMBERS :

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

Also Present: Ambika Conroy, Applicant

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

Reported by: Rosemary A. Meyer

1                               - RE:  AMBIKA CONROY -

2           CHAIRMAN MORDAS:  Next applicant, Ms. Ambika Conroy.

3           MS. A. CONROY:  Hi.  I'm Ambika Conroy, 93 Fish  
4 Hatchery Road.

5           CHAIRMAN MORDAS:  Please state your case.

6           BOARD MEMBER FINDLEY:  Can you put that mic closer?  I  
7 had a very difficult time hearing you.

8           MS. A. CONROY:  Is that better?

9           BOARD MEMBER FINDLEY:  That's better.

10          MS. A. CONROY:  I am requesting an area variance.  I  
11 bought a property at the tax auction in 2015 and the  
12 existing house and barn are 17 feet from the property line,  
13 so both of the structures would need to be approved for a  
14 variance.  I don't now exactly what the process is, but  
15 they're existing for a long time.

16          MR. MOGEL:  It's a variance for which, side yard?

17          BOARD MEMBER DAWKINS:  Front.  She's 17 feet from the  
18 road.

19          MS. A. CONROY:  No, it's not near the road.  It's from  
20 the adjoining property.  It's about 150 or 200 feet from  
21 the road.

22          MR. MOGEL:  Okay.

23          MS. A. CONROY:  It's a dead end.  Both roads dead end  
24 into my property.  And the property line is adjoining my  
25 neighbor.  It's about -- her property is six acres so I

1                               - RE:  AMBIKA CONROY -

2  can't even see her house.  All of it is woods.

3           CHAIRMAN MORDAS:  Other than request for a variance,  
4  how involved are you with the Building Department?  Do you  
5  have any violations?

6           MS. A. CONROY:  There are violations on the property,  
7  many.  We're working with Mary and Horton Engineering and  
8  remedying everything.  And I'm up to date with getting  
9  everything I need for the Building Department.

10          CHAIRMAN MORDAS:  All right.  So you're moving forward  
11  with the Building Department.

12          MS. A. CONROY:  Yes.

13          BOARD MEMBER DAWKINS:  Can I ask you a question?  I  
14  wasn't clear.  So in the map that was submitted, the road  
15  is here, then there's a hundred feet, then there is the  
16  center line to an outbuilding, then there's the well, then  
17  there's the barn/new house.

18          MS. A. CONROY:  Yes.

19          BOARD MEMBER DAWKINS:  Then after that, there's  
20  another barn/old house --

21          MS. A. CONROY:  Yes.

22          BOARD MEMBER DAWKINS:  -- and then another  
23  outbuilding.  So it kind of seems to me like in addition to  
24  the side yard setback we might need an accessory structure  
25  closer to the road?  Do we have to do that?  And I'm not

1                                 - RE:  AMBIKA CONROY -

2 clear --

3             MS. A. CONROY:  It's behind the house.

4             BOARD MEMBER DAWKINS:  I'm talking about Outbuilding  
5 No. 1.

6             MS. A. CONROY:  Yes.  Well, the road -- where the gate  
7 ends, actually, that's what I mean.  But the road was  
8 abandoned.  Supposedly, it doesn't even go to my property.  
9 So the accessory structure sits behind.

10            BOARD MEMBER DAWKINS:  I don't know if we would  
11 consider this primary.

12            BOARD MEMBER FINDLEY:  I think ...

13            MS. A. CONROY:  Do you want me to show you where the  
14 road comes in?

15            CHAIRMAN MORDAS:  Well, we're only concerned if it's a  
16 town road; right?

17            BOARD MEMBER DAWKINS:  Okay.  So Bobcat and Fish  
18 Hatchery --

19            MS. A. CONROY:  This actually, on this map, I thought,  
20 like, it went to my property.  They're saying actually,  
21 this is a right-of-way.  This guy just bought, like, the  
22 lot here.

23            BOARD MEMBER DAWKINS:  So it's not --

24            MR. MOGEL:  It's a paper road.

25            MS. A. CONROY:  Yeah.  Like, I have my mailbox there.

1                               - RE:  AMBIKA CONROY -

2           BOARD MEMBER DAWKINS:  So this is your house.

3           MS. A. CONROY:  Yes.  This is my house legal road and  
4 it's, technically right now, it's abandoned.  They actually  
5 won't fix my road to my needs.  As my gate opens, the road  
6 comes in right here.

7           BOARD MEMBER DAWKINS:  But is that road or is that  
8 driveway?

9           MS. A. CONROY:  This is a driveway.  The road ends  
10 right here.

11          BOARD MEMBER DAWKINS:  So my two questions are it  
12 seems that this building here is closer to the road.

13          MS. A. CONROY:  Uh-huh.

14          BOARD MEMBER DAWKINS:  But the next question is which  
15 of these two structures is going to be your primary?

16          CHAIRMAN MORDAS:  That's the new house.  That's the  
17 one right here.

18          BOARD MEMBER DAWKINS:  But are you living in this one  
19 now?

20          MS. A. CONROY:  No.  This was supposedly livable.

21          BOARD MEMBER DAWKINS:  Oh, okay.

22          MS. A. CONROY:  This is livable.

23          BOARD MEMBER DAWKINS:  This is the house.

24          MS. A. CONROY:  Yes.

25          BOARD MEMBER DAWKINS:  We're going to call that the

1                               - RE: AMBIKA CONROY -

2 house, and this is the barn.

3           MS. A. CONROY: And this is the barn. But eventually,  
4 when we build this out, both of them need a variance.

5           BOARD MEMBER DAWKINS: Okay. So you need side yard  
6 variance and probably an accessory structure closer to the  
7 road.

8           BOARD MEMBER FINDLEY: Well, just in our last thing, I  
9 think we need to ask some questions about the agricultural  
10 use of the property.

11           BOARD MEMBER DAWKINS: Well, we can. But I just  
12 wanted to clarify what it is.

13           BOARD MEMBER FINDLEY: Yes.

14           BOARD MEMBER DAWKINS: I think we're looking at two  
15 things, not one. Okay, that's all.

16           BOARD MEMBER FINDLEY: And the -- because agriculture  
17 is near and dear to my heart --

18           CHAIRMAN MORDAS: What's the condition of Outbuilding  
19 No. 1?

20           BOARD MEMBER RAMPE: But that's not the issue.

21           BOARD MEMBER FINDLEY: No, it really is because the  
22 code always talks about that.

23           CHAIRMAN MORDAS: What were these buildings used for?

24           MS. A. CONROY: I think he was trying to create a  
25 sawmill.

1                               - RE:  AMBIKA CONROY -

2           CHAIRMAN MORDAS:  So is this like covered pole barn or  
3 something?

4           MS. A. CONROY:  Yes, exactly.

5           BOARD MEMBER DAWKINS:  We're talking about ...

6           CHAIRMAN MORDAS:  Paper road.

7           BOARD MEMBER DAWKINS:  Paper road.

8           CHAIRMAN MORDAS:  Now, Ambika, do we have permission  
9 to visit your property?

10          MS. A. CONROY:  Yes.

11          CHAIRMAN MORDAS:  And what kind of shape is Fish  
12 Hatchery Road in, really off of -- what's that, Vernon  
13 Road?

14          MS. A. CONROY:  Mount Vernon, yes.

15          CHAIRMAN MORDAS:  Yes.  Are you a neighbor to, like,  
16 Walt Finkle?

17          MS. A. CONROY:  Dingle Road used to connect.  There's  
18 a logging road that goes all the way through my property  
19 which is what was abandoned, but it used to connect to  
20 Dingle.

21          CHAIRMAN MORDAS:  Okay.

22          MS. A. CONROY:  And there's still a dirt road there  
23 going all the way through.

24          CHAIRMAN MORDAS:  All right.  Any questions from the  
25 Board?



1                               - RE:  AMBIKA CONROY -

2           BOARD MEMBER FINDLEY:  Yes.  Describe your  
3 agricultural use.  Are you a farm, is your livelihood  
4 dependent on farming?

5           MS. A. CONROY:  Yes.

6           BOARD MEMBER FINDLEY:  Are you pursuing -- is your  
7 property an agricultural district?

8           MS. A. CONROY:  I applied for Ag district this year  
9 and was visited by Cornell and they denied my application  
10 because of the amount of animals and also the fact that  
11 there are violations on it.  They said to reapply next year  
12 and they would approve it.  But I am a farm business.  I  
13 have been a farm for two years.  I have been a farm  
14 business, and I was on my previous property in Mountaindale  
15 for five years.

16           CHAIRMAN MORDAS:  How many acres?  102 acres.

17           MS. A. CONROY:  Yes.

18           BOARD MEMBER FINDLEY:  So --

19           MS. A. CONROY:  The plan is to expand.  I used to have  
20 Angora goats for mohair and sheep.  And I raise the rabbits  
21 and in October they get a haircut.

22           BOARD MEMBER FINDLEY:  Do we know when the buildings  
23 were built?

24           BOARD MEMBER RAMPE:  1900.

25           MS. A. CONROY:  Yeah.  They were built in 1900.

1                               - RE:  AMBIKA CONROY -

2           BOARD MEMBER FINDLEY:  Why are we discussing a side  
3 yard variance?

4           MR. MOGEL:  Oh, why are we discussing a side yard  
5 variance?

6           BOARD MEMBER FINDLEY:  Yes.  That's what -- that's  
7 it, yes.

8           MR. MOGEL:  Because she's renovating, I suppose.  And  
9 then the building permit that she needed to gut it.

10          CHAIRMAN MORDAS:  But you are currently an  
11 agricultural entity.

12          MS. A. CONROY:  Yes.

13          BOARD MEMBER FINDLEY:  Well, but I mean --

14          CHAIRMAN MORDAS:  We don't need to talk about setbacks  
15 for farmland.

16          BOARD MEMBER FINDLEY:  Well, no, you still do.  But  
17 they're not what it's said here, 50 feet.  It's not that.  
18 I looked, because like I said, farming is of interest.  
19 It's 25 feet.  But these are preexisting.  This is ...

20          BOARD MEMBER DAWKINS:  But she's getting a building  
21 permit to do work because she's converting the barn to a  
22 house and the house to a barn.

23          MR. MOGEL:  Correct.

24          MS. A. CONROY:  I'm only doing that because the house  
25 is not livable.

1                               - RE:  AMBIKA CONROY -

2           CHAIRMAN MORDAS:  One of our previous applicants, it  
3 was the same issue.  He was pre-code, so we updated it.

4           BOARD MEMBER FINDLEY:  In your renovation are you  
5 making the nonconformance greater?

6           MS. A. CONROY:  No; exactly the same.

7           CHAIRMAN MORDAS:  Do I have a motion to schedule a  
8 public hearing?

9           BOARD MEMBER FINDLEY:  I would vote no to that motion  
10 because I don't believe -- if it's a previously existing  
11 condition, if she's not making it worse, why would you  
12 issue a variance?

13          MR. MOGEL:  Kyra, the question is she's not  
14 increasing, this is a preexisting use, preexisting  
15 buildings, and there's no increase in the amount of the  
16 nonconformity.  So why was it denied the building permit?

17          MS. PLATT:  So there was a house and a shed, garage --

18          MS. A. CONROY:  A barn.

19          MS. PLATT:  -- a barn --

20          MS. A. CONROY:  Uh-huh.

21          MS. PLATT:  -- on the structure.  The house was gutted  
22 and then the accessory structure, the barn was --

23          CHAIRMAN MORDAS:  Converted to a living structure.

24          MS. PLATT:  Yes, all without permits.

25          So it was an accessory structure and it's still in the

1                                 - RE: AMBIKA CONROY -

2 works of being a home; right?

3             MS. A. CONROY: I don't have a CO, yet. I'm waiting  
4 to finish up to get the CO.

5             MS. PLATT: Right.

6             CHAIRMAN MORDAS: I'm not as familiar with the ag  
7 rules as you are, Kent. But for a house as an agricultural  
8 living space ...

9             BOARD MEMBER FINDLEY: I would say if she -- this is  
10 just my interpretation, and we can through the code, but if  
11 she's not making the nonconformity greater and it was  
12 preexisting prior to the code --

13             CHAIRMAN MORDAS: Well, once it was a barn, now it's  
14 become a house.

15             MR. MOGEL: She's changing the usage of the different  
16 buildings.

17             BOARD MEMBER DAWKINS: Otherwise, it would be fine.  
18 And maybe legitimately, the accessory closer to the road is  
19 fine, but why know give her the protection.

20             MS. A. CONROY: I have a question about switching  
21 that, also, because I was a little bit concerned. When I  
22 bought the place I was under the understanding that I could  
23 renovate the house. And after I got into it, it just  
24 became more and more of a problem, so then that's when I  
25 started on the house. And actually, I wasn't living there

1                   - RE:  AMBIKA CONROY -

2 full full-time yet.  So my goal is to have that be the  
3 farm, I guess my workspace.  And then, you know, the house  
4 became more of a problem.  I couldn't get a mortgage, I  
5 couldn't get a loan off that.  So that's why we ended up  
6 doing the barn for the house first.  And then Mary  
7 suggested:  You should switch.  Now that you gutted the  
8 house, that has to be your accessory structure.  I didn't  
9 know any of it.  And then she said:  Well, why don't you  
10 make the barn the house and the house the barn?  So, yeah.  
11 It's all very complicated.  But all of that --

12           CHAIRMAN MORDAS:  It's always good to listen to the  
13 building inspector.

14           MS. A. CONROY:  Yes.  I just -- I was also under the  
15 understanding that it was updating an existing.  I didn't  
16 change anything for that specific reason, and did  
17 everything so that it would pass.  But yeah, I lived in the  
18 Town of Fallsburg before and I know that with updating the  
19 existing whatever you had, as long as you're not changing  
20 footage, that, you know --

21           CHAIRMAN MORDAS:  You're not changing the  
22 nonconformity.

23           MS. A. CONROY:  Yeah.  The reason, the main house that  
24 was sitting on the property, it actually, like, caved in.  
25 So, like -- I mean I feel like I could do better on the

1                                   - RE:  AMBIKA CONROY -

2 whole thing, just in general.

3           CHAIRMAN MORDAS:  I just feel that you have kind of a  
4 different situation.  I don't know if I can call it unique,  
5 that you're converting a barn to a new house.

6           MS. A. CONROY:  Temporary, just because of, like, how  
7 crazy the situation was at the house, which was unexpected.  
8 I mean granted, it was a tax sale, but as far as I was  
9 concerned, it was a three bedroom, you know.

10          BOARD MEMBER FINDLEY:  Is your intention to make the  
11 barn, old house, your house at some point?

12          MS. A. CONROY:  Yes, yes.  I wanted to, I just  
13 couldn't.  I didn't have the money, cash, to --

14          CHAIRMAN MORDAS:  This works out now for you.

15          MS. A. CONROY:  This works out now because if I can  
16 get a CO then I can get a mortgage and then I can use the  
17 money to build the house and then build it back.

18          CHAIRMAN MORDAS:  Do you still feel the same way about  
19 scheduling a public hearing, Kent?

20          BOARD MEMBER FINDLEY:  Yes, because I believe it's an  
21 interpretation issue.  If these things existed -- if you  
22 were remodeling your house and your house was before the  
23 zoning and you're not making your preexisting condition  
24 worse, you shouldn't need a variance.

25          MR. MOGEL:  Look at the section on preexisting

1                   - RE:  AMBIKA CONROY -

2 nonconforming buildings.  For preexisting nonconforming  
3 structures ...

4           MS. A. CONROY:  And I'm also curious why the gentleman  
5 that was before me, why nothing had to -- you know, it  
6 happened previously.

7           BOARD MEMBER DAWKINS:  Because he didn't --

8           MS. A. CONROY:  Once I bought it --

9           BOARD MEMBER DAWKINS:  He didn't do anything to  
10 upgrade the structure, obviously.

11          MS. A. CONROY:  Right.  But, like, he wasn't, you know  
12 -- he wasn't ...

13          MR. MOGEL:  -- the building isn't structurally  
14 altered, moved, reconstructed or enlarged provided it  
15 doesn't increase the degree or create any new  
16 nonconformity.

17          BOARD MEMBER FINDLEY:  Now, if she wanted to put a  
18 porch on that side, I'm not saying you do, I'm saying if  
19 she wanted to, she would need a variance.

20          And then I will also say this.  Being an agriculture,  
21 because she is a farm.

22          BOARD MEMBER DAWKINS:  Please leave it alone.

23          BOARD MEMBER FINDLEY:  No, no.  I've got more to say.

24          BOARD MEMBER DAWKINS:  We're fine.

25          BOARD MEMBER FINDLEY:  I've got more to say.

1                   - RE:  AMBIKA CONROY -

2           BOARD MEMBER DAWKINS:  You won, okay?

3           BOARD MEMBER FINDLEY:  I've got more to say.

4           The side yard setback is not 50 feet, it's 25, and  
5 it's right in the bulk table for agriculture.

6           CHAIRMAN MORDAS:  She's converting.

7           BOARD MEMBER FINDLEY:  And the difference is would  
8 save you a month for your building permit.

9           BOARD MEMBER DAWKINS:  And the expense.

10          BOARD MEMBER FINDLEY:  And the expense.

11          MS. A. CONROY:  Yes, it's all been expensive.

12          BOARD MEMBER FINDLEY:  Yes.  But you won't have to go  
13 through -- I mean if we all agree.

14          But I think that's quite clear in there.

15          BOARD MEMBER DAWKINS:  Did you read that before you  
16 came tonight?

17          BOARD MEMBER FINDLEY:  No.  I just believe it so it's  
18 there.

19          CHAIRMAN MORDAS:  This can't be the first we've dealt  
20 with this situation.

21          BOARD MEMBER FINDLEY:  Right.  I've made arguments  
22 with farming many times.

23          MR. MOGEL:  It would be under 199-51(c).

24          BOARD MEMBER FINDLEY:  What does that say?

25          MR. MOGEL:  Noncompliant buildings.  Noncompliant



1                   - RE: AMBIKA CONROY -

2 buildings may be continued, repaired, structurally altered,  
3 removed, reconstructed or enlarged provided that such  
4 action does not increase the degree of, or create any new  
5 nonconformity to district bulk regulations.

6           So my question is can you swap usage of a house, what  
7 was a barn and then you made that into the house and made  
8 the house into the barn, would that create a new  
9 nonconformity.

10           BOARD MEMBER DAWKINS: No, I don't think so. If you  
11 look at her map, the barn and the house are exactly the  
12 same distance from the property line.

13           BOARD MEMBER FINDLEY: Correct.

14           MR. MOGEL: Is one closer to the road?

15           BOARD MEMBER DAWKINS: Yes. But they're both plenty  
16 far.

17           BOARD MEMBER FINDLEY: And then --

18           MR. MOGEL: Yes, but the question is is the accessory  
19 structure closer to the road than the street wall of the --

20           BOARD MEMBER FINDLEY: Now, wait a minute. Just in  
21 case, even if it was, we could go to what we just read  
22 about the accessory structure before. It says unless  
23 agricultural use.

24           CHAIRMAN MORDAS: What's the actual front yard?

25           BOARD MEMBER FINDLEY: It's huge. It's huge. There's

1                   - RE:  AMBIKA CONROY -

2 a hundred acres.

3           MS. A. CONROY:  It's not near any road, really.  You  
4 can't see it.

5           MR. MOGEL:  We're looking at 199-51(c) --

6           MS. PLATT:  Yes.

7           MR. MOGEL:  -- saying that it's a noncompliant  
8 building; right?  Nothing that's being done to those  
9 buildings is creating a new nonconformity.

10          MS. PLATT:  Technically, just because you don't have  
11 the CO, they are two accessory structures on the property  
12 without a primary structure.

13          MR. MOGEL:  Right.

14          MS. PLATT:  So that would be more nonconforming.

15          BOARD MEMBER DAWKINS:  But since she switched one --

16          MS. PLATT:  Not legally.

17          BOARD MEMBER FINDLEY:  But she's trying to get --

18          BOARD MEMBER DAWKINS:  But she's doing.

19          MS. PLATT:  She is trying to, yes.

20          BOARD MEMBER FINDLEY:  -- to get a building permit.

21          CHAIRMAN MORDAS:  Yes.  But switching an accessory  
22 structure would be up to ten feet from the property line.  
23 And it was always an accessory structure, but now it's  
24 being converted to a house.

25          BOARD MEMBER DAWKINS:  And that's not what she's ...

1                   - RE:  AMBIKA CONROY -

2           CHAIRMAN MORDAS:  Is that also --

3           BOARD MEMBER FINDLEY:  And even --

4           MS. PLATT:  Well, the house needs to be 50 feet away  
5 from the property line for setback.

6           BOARD MEMBER FINDLEY:  Well, I argue that it's 25  
7 feet.

8           MS. PLATT:  What zone is she in?

9           BOARD MEMBER FINDLEY:  Mountain Greenbelt.

10          CHAIRMAN MORDAS:  Mountain Greenbelt.

11          BOARD MEMBER FINDLEY:  But you have to go to  
12 agricultural use.

13          MS. PLATT:  For the house?

14          BOARD MEMBER FINDLEY:  It's agricultural use, side  
15 yard setback.  It doesn't say for dwelling, it doesn't say  
16 for anything.  It just says agricultural.

17          MS. PLATT:  The kitchen in the house is going to be  
18 used for dying the fur?

19          MS. A. CONROY:  Sorry?

20          MS. PLATT:  You wanted to dye the rabbits' fur;  
21 correct?

22          MS. A. CONROY:  I'm sorry.  I don't understand.

23          MS. PLATT:  Dying the rabbits fur.

24          MS. A. CONROY:  What?  I'm sorry.

25          MS. PLATT:  Which building are you using for that?

1 - RE: AMBIKA CONROY -

2 MS. A. CONROY: What kitchen?

3 BOARD MEMBER DAWKINS: Which building are you using --

4 MS. A. CONROY: Oh.

5 BOARD MEMBER DAWKINS: -- to dye the rabbit fur.

6 MS. A. CONROY: There's only one building, which is  
7 the barn.

8 BOARD MEMBER FINDLEY: I guess what I'm saying is the  
9 bulk table doesn't say residential house has to have the  
10 side yard, it says agricultural. If you're using the  
11 property --

12 MS. PLATT: That would be --

13 BOARD MEMBER FINDLEY: If the property is being used  
14 for agricultural, it would be my interpretation any  
15 building on that property.

16 CHAIRMAN MORDAS: So even a residence on a  
17 agricultural operation --

18 BOARD MEMBER FINDLEY: Yes.

19 CHAIRMAN MORDAS: -- is --

20 BOARD MEMBER FINDLEY: It doesn't --

21 BOARD MEMBER DAWKINS: Mixed use.

22 BOARD MEMBER FINDLEY: No. Agricultural, a house  
23 living on a farm is not mixed use. It's Mountain  
24 Greenbelt, agricultural operation. That's what she's  
25 arguing she is. Now, if you accept that argument, and I

1                   - RE:  AMBIKA CONROY -

2 think you said you have met the financial ...

3           MS. A. CONROY:  Yes.

4           MS. PLATT:  Yes, she has that.

5           MS. A. CONROY:  For the last two years, three years.

6           BOARD MEMBER FINDLEY:  And it even says --

7           MS. A. CONROY:  And I will also add --

8           BOARD MEMBER FINDLEY:  Agricultural operation, she's  
9 an agricultural operation.

10          BOARD MEMBER DAWKINS:  What is it?

11          BOARD MEMBER FINDLEY:  25 yard, 50 yard, both sides.

12          If you have -- you don't go and use a couple  
13 different.

14          BOARD MEMBER MORREALE:  What do you mean?

15          BOARD MEMBER DAWKINS:  You have to be one or the  
16 other.

17          BOARD MEMBER MORREALE:  You're either one or the  
18 other.

19          BOARD MEMBER FINDLEY:  Right, you're one or the other.

20          CHAIRMAN MORDAS:  So you're not a single-family  
21 attached dwelling, you're an agricultural operation.

22          BOARD MEMBER FINDLEY:  Right.  So ...

23          MR. MOGEL:  So is there any other?  Is there anything  
24 that's going on right here that's increasing the  
25 nonconformity?

1                   - RE: AMBIKA CONROY -

2           MS. PLATT: For an agricultural operation?

3           MR. MOGEL: Yes.

4           MS. PLATT: This feels like a test.

5           MR. MOGEL: If you want to blame someone, you can  
6 blame Kent.

7           MS. PLATT: Ahh ...

8           CHAIRMAN MORDAS: Actually, I'd like to make a motion  
9 to set up a conditional public hearing based on review by  
10 Mary Grass of ...

11           BOARD MEMBER FINDLEY: That's a good idea because I  
12 don't want to make her get pushed off another month if --

13           CHAIRMAN MORDAS: All right.

14           BOARD MEMBER FINDLEY: -- I missed an argument.

15           CHAIRMAN MORDAS: So basically, you're in the cue in  
16 case Mary comes back with a clarification of the  
17 regulations that goes against what Kent is saying. But if  
18 Mary agrees with the interpretation of your situation here,  
19 then --

20           BOARD MEMBER DAWKINS: Then we'll have a public  
21 hearing set up.

22           BOARD MEMBER FINDLEY: Yes.

23           MR. MOGEL: So what you should do is make the motion  
24 for the public hearing and then you have the option of  
25 withdrawing that.

1 - RE: AMBIKA CONROY -

2 BOARD MEMBER DAWKINS: It just won't happen. It won't  
3 go forward.

4 MS. A. CONROY: So just to clarify, this will go back  
5 to Mary and ...

6 BOARD MEMBER DAWKINS: Kyra will let you know what  
7 Mary decides. If Mary --

8 BOARD MEMBER FINDLEY: You should be able to call  
9 tomorrow sometime; right?

10 BOARD MEMBER DAWKINS: Yes. Well, give her a break.  
11 It's Friday.

12 BOARD MEMBER FINDLEY: The Applicant should be able to  
13 call Mary tomorrow sometime to discuss this situation.

14 MS. PLATT: Anytime after nine.

15 BOARD MEMBER FINDLEY: Well, give her a little time to  
16 digest.

17 MS. A. CONROY: And if it's 25 feet, is she going to  
18 question that?

19 BOARD MEMBER DAWKINS: She's going to determine if the  
20 regs that you're citing are accurate.

21 MR. MOGEL: Correct.

22 MS. A. CONROY: Oh.

23 BOARD MEMBER DAWKINS: If the regs that we're citing  
24 are accurate then you don't need a variance.

25 MS. A. CONROY: Okay.

1                               - RE:  AMBIKA CONROY -

2           MR. MOGEL:  Kyra, so the main things we're going to  
3 need to be looking at is 199-51(c) about noncomplying  
4 buildings; and the bulk tables for agricultural use, the  
5 setback.  If you could let Mary know that the Board is of  
6 the unofficial position that 199-51(c) is applicable and  
7 that this constitutes an agricultural use and there is  
8 doubt as to whether a variance is required.

9           BOARD MEMBER DAWKINS:  Okay.  So there's two issues,  
10 Kyra, that Mary needs to know.  One is she's not increasing  
11 the degree of the variance and the other is the whole  
12 agricultural thing.

13           BOARD MEMBER FINDLEY:  We're not done, are we?

14           MR. MOGEL:  No.

15           CHAIRMAN MORDAS:  All right.  A motion to --

16           BOARD MEMBER DAWKINS:  Well, wait.  We haven't had a  
17 motion to set up a public hearing.

18           BOARD MEMBER FINDLEY:  Yes.

19           BOARD MEMBER DAWKINS:  I'd like to make a motion that  
20 we schedule a public hearing for this.

21           MR. MOGEL:  Correct.

22           BOARD MEMBER FINDLEY:  Aye.

23           BOARD MEMBER MORREALE:  I'm in favor.

24           CHAIRMAN MORDAS:  All in favor?

25           Aye.



1                               - RE:  AMBIKA CONROY -

2       BOARD MEMBER DAWKINS:  Aye.

3       BOARD MEMBER RAMPE:  Aye.

4       BOARD MEMBER MORREALE:  Aye.

5       CHAIRMAN MORDAS:  Aye.

6                               (The motion was approved and carried.)

7       CHAIRMAN MORDAS:  All right.

8       BOARD MEMBER FINDLEY:  And if you don't need it, we  
9       don't have it.

10       CHAIRMAN MORDAS:  Thank you.  Good luck.

11                               (Time noted:  9:37 p.m.)

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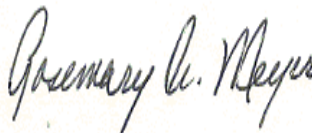
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REPORTER'S CERTIFICATION

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 Ambika Conroy, 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: September 12, 2018

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X  
Christopher Johnson & Suzanne Defeo Johnson  
Area Variance  
Tax Map Section 1; Block 1; Lot 22  
----- X

Town Hall  
Town of Mamakating  
July 28, 2018  
9:37 P.M.

ZONING BOARD MEMBERS :

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

Also Present: Owen O'Connor, on behalf of Applicant

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

Reported by: Rosemary A. Meyer

1                   - RE: C. JOHNSON & S. DEFEO JOHNSON -

2           MR. O. O'CONNOR: Hi. My name is Owen O'Connor. My  
3 address is 143 Henry Street, Kingston, New York. I'm here  
4 on behalf of Christopher Johnson.

5           BOARD MEMBER RAMPE: How are you here on behalf?

6           MR. O. O'CONNOR: In the application they named me as  
7 their representative here.

8           BOARD MEMBER RAMPE: Oh.

9           BOARD MEMBER MORREALE: As a proxy.

10          MR. O. O'CONNOR: Of the owner of this project.

11          BOARD MEMBER DAWKINS: And what's your name again?

12          MR. O. O'CONNOR: My name is Owen --

13          BOARD MEMBER DAWKINS: Owen.

14          MR. O. O'CONNOR: -- O'Connor.

15          BOARD MEMBER RAMPE: On the application ...

16          CHAIRMAN MORDAS: And you're representing the  
17 Johnsons?

18          MR. O. O'CONNOR: At this meeting, yes. I'm not a  
19 lawyer, I'm not an engineer, I'm the contractor.

20          BOARD MEMBER RAMPE: I just have to find you on here.

21          MR. O. O'CONNOR: Sure.

22          BOARD MEMBER FINDLEY: Maybe it's just the building  
23 permit or something.

24          BOARD MEMBER MORREALE: Are you a proxy? Is that ...

25          MR. O. O'CONNOR: Yes.

1                   - RE: C. JOHNSON & S. DEFEO JOHNSON -

2           MR. MOGEL: On the application you can designate an  
3 individual to appear on your behalf.

4           BOARD MEMBER MORREALE: Oh, okay.

5           BOARD MEMBER RAMPE: Yes, but we should see it.

6           MR. MOGEL: That's true.

7           BOARD MEMBER RAMPE: I don't see it.

8           BOARD MEMBER DAWKINS: Did you know about it?

9           CHAIRMAN MORDAS: Did you know that Owen was going to  
10 be standing in for the Johnsons?

11          MS. PLATT: Yes, I did.

12          BOARD MEMBER DAWKINS: Okay. As long as you knew.

13          MR. MOGEL: Well, is it on the application that he's  
14 designated?

15          MR. O. O'CONNOR: There's a --

16          MR. MOGEL: Right.

17          MR. O. O'CONNOR: -- recognition.

18          MS. PLATT: There's authorization of his  
19 representation.

20          MR. MOGEL: Okay, all right.

21          BOARD MEMBER RAMPE: Okay.

22          BOARD MEMBER DAWKINS: Okay.

23          CHAIRMAN MORDAS: All right, Owen. Start, tell us the  
24 project.

25          MR. O. O'CONNOR: So what we submitted is a site plan

1                   - RE: C. JOHNSON & S. DEFEO JOHNSON -  
2 here for a single-family home permit. The Building  
3 Department flagged that we were -- they'd like two things.  
4 One, that we're asking to build an accessory structure when  
5 there wasn't yet a home. And secondly, that the shed was  
6 -- they were showing on the site plan it was between the  
7 street wall and the road. So we amended the building  
8 application for the shed and for the house under  
9 construction. And now we're coming back to the Building  
10 Department to basically get the denial for the shed and  
11 appear before you, get the denial. And, you know, we're  
12 looking to ask to build a shed on the location shown on the  
13 site plan.

14           BOARD MEMBER FINDLEY: The shed will be permanent?

15           MR. O. O'CONNOR: Well, yes. It's ...

16           BOARD MEMBER FINDLEY: It's not temporary for  
17 construction?

18           MR. O. O'CONNOR: It's no -- basically, it's a 12 foot  
19 by 16 foot storage shed. It's going to be made by Brad's  
20 Barns and delivered to the site. We're then going to add a  
21 metal roof to match the building, to match the house, and  
22 paint it the same color as the house.

23           BOARD MEMBER DAWKINS: So they're -- okay.

24           BOARD MEMBER FINDLEY: How far is the shed from the  
25 road? I don't quite see a dimension on that, or maybe I'm

1                   - RE: C. JOHNSON & S. DEFEO JOHNSON -  
2 missing it.

3           MR. O. O'CONNOR: Sure.

4           BOARD MEMBER DAWKINS: Are these numbers feet?

5           BOARD MEMBER FINDLEY: Those are elevations.

6           BOARD MEMBER DAWKINS: Elevations? Okay.

7           MR. O. O'CONNOR: The scale, I don't have that number  
8 off the top of my head.

9           BOARD MEMBER FINDLEY: The scale is ...

10          BOARD MEMBER DAWKINS: It's about a hundred --

11          MS. PLATT: Like 140, 150 feet.

12          BOARD MEMBER FINDLEY: -- as shown. One inch equals  
13 20 feet.

14          CHAIRMAN MORDAS: What, between the shed and the road?  
15 I got about 120.

16          BOARD MEMBER DAWKINS: I do, too.

17          MR. O. O'CONNOR: I tried taking pictures for you  
18 guys, but they do really show the situation one way or the  
19 other.

20          CHAIRMAN MORDAS: What's the topo?

21          MR. O. O'CONNOR: Yeah. The road -- that site you're  
22 looking at and you're seeing the grade lines, the site is  
23 sloping away from the road. It's going downhill, yeah.  
24 And you can see there's just -- there's existing trees on  
25 the property that shield it some. The property owner is

1                   - RE: C. JOHNSON & S. DEFEO JOHNSON -  
2     intending to plant more trees along the road. It's -- the  
3     -- it's not even -- the shed, it's tucked. It will be  
4     tucked against the driveway.

5           BOARD MEMBER FINDLEY: Is there a depiction of what  
6     the shed will look like in the packet?

7           MR. O. O'CONNOR: It's not in the packet. I can show  
8     you some.

9           BOARD MEMBER RAMPE: How come you're not --

10          CHAIRMAN MORDAS: Are these pic -- I'm sorry. Go  
11     ahead.

12          BOARD MEMBER RAMPE: How come you're not placing this  
13     closer to the residence?

14          MR. O. O'CONNOR: Why it's not closer to the  
15     residence?

16          BOARD MEMBER RAMPE: Yes.

17          MR. O. O'CONNOR: Um ...

18          BOARD MEMBER RAMPE: It's pretty far away.

19          MR. O. O'CONNOR: We're -- I have to check with the  
20     engineer and get back to you. I mean I wasn't sure that --  
21     I believe they had placed it there with some respect to  
22     that 40 foot setback that's shown on the site plan. I  
23     could be wrong about that, but ...

24          BOARD MEMBER DAWKINS: Yes. But she's wondering why  
25     it's not closer to the house.



1                   - RE: C. JOHNSON & S. DEFEO JOHNSON -

2           MR. O. O'CONNOR   There's existing trees there that are  
3 shown on the site plan. They were trying to disturb as  
4 little as possible.

5           CHAIRMAN MORDAS:   Owen, do you have authorization from  
6 the owner of the property to grant us access to the  
7 property to inspect it?

8           MR. O. O'CONNOR:   Yes.

9           CHAIRMAN MORDAS:   Okay.

10          And how much work has been done? How accessible is  
11 the property?

12          MR. O. O'CONNOR:   How accessible is it?

13          CHAIRMAN MORDAS:   Yes.

14          MR. O. O'CONNOR:   I mean there's a driveway in. It's  
15 an active construction site. You know ...

16          CHAIRMAN MORDAS:   The driveway is in, it's just not  
17 paved yet?

18          MR. O. O'CONNOR:   Not paved, yeah. I think, also,  
19 we're there during normal Monday through Friday business  
20 hours. I wouldn't want somebody, you know, to come by in  
21 the evening, you know, tripping over something.

22          CHAIRMAN MORDAS:   All right. So ...

23          MR. O. O'CONNOR:   But if you want to give me a call.

24          BOARD MEMBER DAWKINS:   Leave your number with Kyra.

25          MR. O. O'CONNOR:   Sure.

1                   - RE: C. JOHNSON & S. DEFEO JOHNSON -

2           CHAIRMAN MORDAS: Any more questions?

3           BOARD MEMBER FINDLEY: We've got to hold a public  
4 hearing.

5           CHAIRMAN MORDAS: All right. Do I have a motion to  
6 schedule a public hearing?

7           BOARD MEMBER FINDLEY: I make that motion.

8           BOARD MEMBER MORREALE: Second.

9           CHAIRMAN MORDAS: All in favor?

10          BOARD MEMBER RAMPE: Aye.

11          BOARD MEMBER DAWKINS: Aye.

12          BOARD MEMBER FINDLEY: Aye.

13          BOARD MEMBER MORREALE: Aye.

14          CHAIRMAN MORDAS: Aye.

15                   (The motion was approved and carried.)

16          BOARD MEMBER DAWKINS: That will be next month.

17          MR. O. O'CONNOR: Great.

18          Can I ask you a question?

19          CHAIRMAN MORDAS: Sure.

20          MR. O. O'CONNOR: Is there any other information you  
21 need to have that public hearing, at least from the Board's  
22 perspective?

23          BOARD MEMBER FINDLEY: I think pictures would help.

24          BOARD MEMBER DAWKINS: Oh, I do want to make a point  
25 before you leave. It's my understanding from looking at

1                   - RE: C. JOHNSON & S. DEFEO JOHNSON -  
2 the town tax map this property abuts the county line and so  
3 a 239 would be required.

4           MS. PLATT: I sent it to them.

5           BOARD MEMBER DAWKINS: Okay.

6           MS. PLATT: Yes.

7           CHAIRMAN MORDAS: Thank you.

8           Yes, better pictures.

9           MR. O. O'CONNOR: Pictures of the trees.

10          Thanks a lot.

11          CHAIRMAN MORDAS: Thank you.

12          Motion to close the meeting?

13          BOARD MEMBER DAWKINS: So moved.

14          CHAIRMAN MORDAS: All in favor?

15          BOARD MEMBER DAWKINS: Aye.

16          BOARD MEMBER RAMPE: Aye.

17          BOARD MEMBER FINDLEY: Aye.

18          BOARD MEMBER MORREALE: Aye.

19          CHAIRMAN MORDAS: Aye.

20                   (The motion was approved and carried.)

21                   (Time noted: 9:46 p.m.)

22                           \* \* \* \* \*

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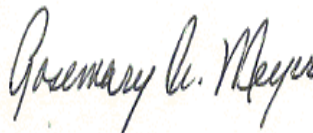
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REPORTER'S CERTIFICATION

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 Christopher Johnson and Suzanne Defeo Johnson, 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: September 13, 2018

<p><b>A</b></p> <p><b>abandoned (3)</b> 92:8;93:4;95:19</p> <p><b>able (4)</b> 47:14;48:10;110:8,12</p> <p><b>abuts (1)</b> 122:2</p> <p><b>accept (4)</b> 4:18,19,20;107:25</p> <p><b>access (1)</b> 120:6</p> <p><b>accessible (2)</b> 120:10,12</p> <p><b>accessory (12)</b> 92:9;94:6;98:22,25;99:18;100:8;104:18,22;105:11,21,23;117:4</p> <p><b>accurate (2)</b> 110:20,24</p> <p><b>accused (1)</b> 65:25</p> <p><b>acre (8)</b> 34:11;36:15;58:23;60:17,19;61:4,5,7</p> <p><b>acres (8)</b> 34:8;58:11,13;60:23;61:10;96:16,16;105:2</p> <p><b>across (1)</b> 47:12</p> <p><b>act (1)</b> 31:7</p> <p><b>acting (2)</b> 31:12;49:12</p> <p><b>action (1)</b> 104:4</p> <p><b>active (1)</b> 120:15</p> <p><b>actual (1)</b> 104:24</p> <p><b>actually (27)</b> 35:6,8;44:8,13,15,23;45:2,7;54:8,8,20,20,22,23,25;56:6;57:14;61:6,8;70:2;92:7,19,20;93:4;99:25;100:24;109:8</p> <p><b>add (3)</b> 46:15;108:7;117:20</p> <p><b>addendum (2)</b> 64:25;66:6</p> <p><b>additional (1)</b> 31:2</p> <p><b>address (4)</b> 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