

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

---

*Meeting Minutes`*  
*10-25-18*  
*October 25, 2018*

---

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

ZONING BOARD OF APPEALS

MINUTES

October 25, 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

MICHELE HARRINGTON, 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

Jodi Cavanaugh  
Area Variance  
Tax Map Section 27.A; Block 2; Lot 56.2  
Burlingham Residential Zone

----- X

Town Hall  
Town of Mamakating  
October 25, 2018  
7:00 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
- MICHELE HARRINGTON, Building Department

Also Present: Jodi Cavanaugh, Applicant

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

Reported by: Rosemary A. Meyer

1                   - RE: JODI CAVANAUGH -

2           CHAIRMAN MORDAS: All right. Good evening, ladies and  
3 gentlemen. Welcome to the Mamakating Zoning Board of  
4 Appeals meeting for October 25th, 2018. I'm your chairman,  
5 Matthew Mordas.

6           I'll start out the meeting with a roll call.

7           Kent Findley.

8           BOARD MEMBER FINDLEY: Present.

9           CHAIRMAN MORDAS: Matthew Morreale.

10          BOARD MEMBER MORREALE: Present.

11          CHAIRMAN MORDAS: Georgia Rampe.

12          BOARD MEMBER RAMPE: Here.

13          CHAIRMAN MORDAS: Cathy Dawkins.

14          BOARD MEMBER DAWKINS: Here.

15          CHAIRMAN MORDAS: While we wait for our attorney,  
16 Steve Mogel, we're going to start the meeting in reverse  
17 order, starting off with Jodi Cavanaugh.

18          But before we go, I just have to say that there are no  
19 minutes to accept so acceptance of the minutes is a moot  
20 point.

21          Is Jodi Cavanaugh present?

22          All right. Please step forward and state your case.

23          MS. J. CAVANAUGH: Hi, how are you?

24          My case is we have a small cottage and we're  
25 interested in doing a large one car garage so we have more

1                   - RE: JODI CAVANAUGH -

2 storage at our home. It's only like a thousand square  
3 feet. We do have a small shed on the property at the end  
4 of the driveway, but the property falls off there. We have  
5 a large yard, but it falls off, I would say about a 15 foot  
6 drop. Gradual drop, but it's a drop. And where we want to  
7 put the garage is more -- it's forward of the house. It's  
8 more than ten feet away from the road, but it's forward of  
9 the house, and so we're looking to get a variance.

10           We're on a private circle.

11           CHAIRMAN MORDAS: Any questions from the Board?

12           BOARD MEMBER FINDLEY: I'm looking at this sketch  
13 here. I just want to understand what I'm look at as far as  
14 the road. The road is here?

15           MS. J. CAVANAUGH: Yeah, this is the road.

16           BOARD MEMBER FINDLEY: This is your shed?

17           MS. J. CAVANAUGH: Yeah.

18           BOARD MEMBER FINDLEY: And this is where you want to  
19 put the garage.

20           MS. J. CAVANAUGH: Yeah.

21           BOARD MEMBER FINDLEY: And what is this distance?

22           MS. J. CAVANAUGH: I didn't measure, but it's over ten  
23 feet. Maybe 15. Fifteen or more.

24           BOARD MEMBER FINDLEY: And you're in Burlingham  
25 Residential Zone.

1                   - RE: JODI CAVANAUGH -

2           The bulk tables in the back here?

3           BOARD MEMBER MORREALE: Yes.

4           BOARD MEMBER DAWKINS: So I'm looking at your drawing  
5 also and I see it looks like the drop off is behind the  
6 shed and the deck. Is that correct?

7           MS. J. CAVANAUGH: Yeah. I would say the drop off  
8 starts at the foot of the step of the deck --

9           BOARD MEMBER DAWKINS: Okay.

10          MS. J. CAVANAUGH: -- about a foot or two behind the  
11 shed.

12          BOARD MEMBER DAWKINS: And why are you not proposing  
13 to put the garage up closer to the shed?

14          MS. J. CAVANAUGH: Well, I don't want to lose the shed  
15 because we use it for mowers, all our outdoor furniture.  
16 It's still in good shape.

17          BOARD MEMBER DAWKINS: No, I'm not proposing that.  
18 I'm just asking on the same side as the garage, closer to  
19 the shed behind the tree?

20          MS. J. CAVANAUGH: I don't know you can see the circle  
21 with the W there on the tree. There's a well. It's a big  
22 stone well housing and it starts getting close to the well  
23 and to the maple tree. And there's an oak tree right  
24 behind the shed, too. It's like -- so between the drop off  
25 and the well and the tree, I don't want to do damage to

1                               - RE: JODI CAVANAUGH -

2 roots. Or I don't know how much would have to get built up  
3 to support the back to the garage.

4           BOARD MEMBER DAWKINS: So you're planning to put in a  
5 concrete foundation?

6           MS. J. CAVANAUGH: Yeah.

7           BOARD MEMBER FINDLEY: Do you have central water or  
8 sewer?

9           MS. J. CAVANAUGH: No. We have a septic and a well.

10          BOARD MEMBER RAMPE: Where is your well located?

11          MS. J. CAVANAUGH: Where the W is.

12          BOARD MEMBER RAMPE: Oh. But I thought she said it  
13 was right here.

14          MS. J. CAVANAUGH: It is. It's a big well house.

15          BOARD MEMBER RAMPE: Oh, oh, oh, oh, oh.

16          MS. J. CAVANAUGH: And then there's a door on top and  
17 it goes to the well to pump it down about ten feet  
18 underground.

19          BOARD MEMBER RAMPE: And your property line, I don't  
20 see that.

21          MS. J. CAVANAUGH: Well --

22          BOARD MEMBER DAWKINS: I see maybe one.

23          MS. J. CAVANAUGH: I have a copy of the site plan.  
24 Not the site plan. The property plan.

25          BOARD MEMBER DAWKINS: The plat.



1                   - RE: JODI CAVANAUGH -

2           MS. J. CAVANAUGH: It looks like this. It should be  
3 in all of them.

4           BOARD MEMBER DAWKINS: Kyra, can we get copies of  
5 that?

6           MS. J. CAVANAUGH: I thought it was in this packet.

7                   (Ms. Platt complied.)

8           BOARD MEMBER FINDLEY: The minimum front yard ...

9           CHAIRMAN MORDAS: How big is the existing shed?

10          MS. J. CAVANAUGH: It's like 10 by -- 10-by-12?

11          CHAIRMAN MORDAS: And you don't consider to the right  
12 side of the shed enough room to place the 25-by-25  
13 structure you're proposing?

14          MS. J. CAVANAUGH: If -- if we go by the -- probably,  
15 maybe. I mean you'd have to remove the shed, I think,  
16 because it's going to go well to the right of the shed, the  
17 distance; yeah.

18                   (Mr. Mogel entered the meeting at  
19                   7:13 p.m.)

20          MR. MOGEL: It should be noted that the proposed  
21 action is a Type II under SEQRA and no further  
22 environmental review is required.

23          BOARD MEMBER RAMPE: Thank you.

24          MS. J. CAVANAUGH: And I know the water line comes  
25 across the driveway there about ten feet in front of the

1                   - RE: JODI CAVANAUGH -

2 shed, too.

3           CHAIRMAN MORDAS: And how far off the road are you  
4 proposing to building this structure?

5           MS. J. CAVANAUGH: It's about 15.

6           CHAIRMAN MORDAS: Fifteen feet off the road?

7           BOARD MEMBER FINDLEY: Just two thoughts with that.  
8 The front yard setback is 50 feet, but this is also, I  
9 believe a nonconforming lot because it's less than two  
10 acres. Two acres is required for a single family.

11          MR. MOGEL: Yes. I note that the denial is simply for  
12 closer to the --

13          CHAIRMAN MORDAS: The street than the front wall of  
14 the house.

15          MR. MOGEL: Right, exactly.

16          BOARD MEMBER FINDLEY: Right. But we'd have to  
17 address the 50 foot issue also, no?

18          MR. MOGEL: Well, technically --

19          BOARD MEMBER FINDLEY: Front yard setback --

20          BOARD MEMBER DAWKINS: For a house.

21          MR. MOGEL: For a house, yes.

22          BOARD MEMBER FINDLEY: To me, that means anything.  
23 When we look at our rear yard or side yard we consider  
24 accessory structures, also; no?

25          MR. MOGEL: Ten feet.

1                   - RE: JODI CAVANAUGH -

2           CHAIRMAN MORDAS: That's for a permitted structure.

3           BOARD MEMBER FINDLEY: Okay.

4           CHAIRMAN MORDAS: All right. Ms. Cavanaugh, would you  
5 be willing to give the board members permission to inspect  
6 your property?

7           MS. J. CAVANAUGH: Oh, yeah; definitely.

8           CHAIRMAN MORDAS: Thank you.

9           BOARD MEMBER RAMPE: Do you have any photographs of  
10 the property?

11          MS. J. CAVANAUGH: I didn't think to bring one.  
12 Sorry.

13          BOARD MEMBER RAMPE: That's all right.

14          CHAIRMAN MORDAS: I anticipate we're going to schedule  
15 a public hearing. Is it possible to do some photographic  
16 work, provide the images to Kyra sometime before the public  
17 hearing --

18          MS. J. CAVANAUGH: Certainly.

19          CHAIRMAN MORDAS: -- so we can look at it?

20          MS. J. CAVANAUGH: Yeah. So I'll take some pictures,  
21 we'll print them out. Are they okay if they're on, like,  
22 paper?

23          CHAIRMAN MORDAS: That's fine.

24          MS. J. CAVANAUGH: All right. Yeah, I can do that.

25          CHAIRMAN MORDAS: Any more questions from the Board?

1                   - RE: JODI CAVANAUGH -

2                   (No verbal response.)

3           CHAIRMAN MORDAS: If you have them, please.

4           BOARD MEMBER MORREALE: This may have already been  
5 addressed. Can we see the property, drive by?

6           MS. J. CAVANAUGH: Oh, yeah.

7           CHAIRMAN MORDAS: All right. If no other Board  
8 members have any questions at this time, do I have a motion  
9 to set up a public hearing?

10          BOARD MEMBER DAWKINS: So moved.

11          CHAIRMAN MORDAS: Do I have a second?

12          BOARD MEMBER MORREALE: Second.

13          CHAIRMAN MORDAS: All in favor?

14          BOARD MEMBER RAMPE: Aye.

15          BOARD MEMBER DAWKINS: Aye.

16          BOARD MEMBER FINDLEY: Aye.

17          BOARD MEMBER MORREALE: Aye.

18          CHAIRMAN MORDAS: Aye.

19                   (The motion was approved and carried.)

20          CHAIRMAN MORDAS: All right. Speak to Kyra. There's  
21 a certain protocol you're going to need to follow in  
22 regards to notifying your neighbors.

23          MS. J. CAVANAUGH: Okay.

24          CHAIRMAN MORDAS: She'll be able to develop a list of  
25 people within a 500 foot radius of your home.

1                   - RE: JODI CAVANAUGH -

2           MS. J. CAVANAUGH: Okay.

3           CHAIRMAN MORDAS: She'll provide that list to you.

4           MS. J. CAVANAUGH: Okay. Thank you. And I'll get  
5 pictures to you right away.

6           CHAIRMAN MORDAS: Thank you very much.

7                   (Time noted: 7:18 p.m.)

8                           \* \* \* \* \*

9                   (The record was reopened at 8:36 p.m.;

10           Ms. J. Cavanaugh, Applicant, was not present.)

11           CHAIRMAN MORDAS: All right, next on the agenda.

12           BOARD MEMBER FINDLEY: Can I just -- I want to revert  
13 back to Jodi Cavanaugh's. I know she's left. But  
14 199-13(A), no accessory building permitted by this chapter  
15 shall be placed in any required side or required front yard  
16 except as specified herein.

17           The lot is nonconforming. It's a single residential  
18 on less than two acres. The required front yard from  
19 199-13(C)(2) requires 30 percent of the average lot depth.  
20 I really think she needs to present that information, what  
21 her lot size is, the depth, what she's infringing upon on  
22 the front yard. She needs to have that with her when she  
23 comes to a public hearing. So I don't know if Kyra can ...

24           MS. PLATT: You want to know the front yard setback?

25           BOARD MEMBER FINDLEY: Yes. She's going to need to

1                   - RE: JODI CAVANAUGH -

2 know her front yard setback, the depth of her lot.

3           BOARD MEMBER RAMPE: Well, we should be able to take off  
4 the map.

5           BOARD MEMBER DAWKINS: But we don't have it for --

6           BOARD MEMBER FINDLEY: Her map is not clear.

7           CHAIRMAN MORDAS: It's not a very formal drawing.

8           BOARD MEMBER RAMPE: This one.

9           BOARD MEMBER FINDLEY: Oh, okay.

10          BOARD MEMBER DAWKINS: But this plat map gives us that  
11 information with respect to the house but not necessarily  
12 with respect to the proposed shed.

13          BOARD MEMBER FINDLEY: I just don't want her to come  
14 and not have the proper information.

15          MR. MOGEL: Well, I mean I think that might be  
16 modified. If you look at it, it says: No accessory  
17 building permitted by this chapter shall be placed in a  
18 required side or required front yard, except as specified  
19 hereinafter in this article. If you look at C, accessory  
20 structures which are not attached to a principal structure  
21 may be erected in accordance with the following  
22 restrictions and it gives three restrictions. No closer  
23 than ten feet to the side and rear lot lines; not closer to  
24 the street than the street wall; and not closer to the  
25 principal structure than ten feet. In my opinion,

1 - RE: JODI CAVANAUGH -

2 199-13(C) modifies 199(A). I mean it's explicit, in  
3 199(A), that C governs here. So it's saying if it's not  
4 attached to a principal structure, these are the criteria.  
5 I think that's the way the Board has always kind of looked  
6 at it.

7 The front yard setback is what, 50 feet or something  
8 like that.

9 MS. PLATT: He's talking about nonconforming lots.

10 BOARD MEMBER DAWKINS: It's a nonconforming lot.

11 BOARD MEMBER FINDLEY: It's a nonconforming lot.

12 MR. MOGEL: Right, right. But I mean you would say it  
13 would apply to it whether it's conforming or not.

14 BOARD MEMBER FINDLEY: Yes. If it was conforming it  
15 would be 50 feet.

16 MR. MOGEL: It would be 50 feet and then this would be  
17 a calculation based on the nonconformity.

18 BOARD MEMBER FINDLEY: Right. But --

19 MR. MOGEL: In my opinion, it's 199(C).

20 BOARD MEMBER FINDLEY: But if you infringe that 50  
21 feet you've violate two part of the code.

22 MR. MOGEL: In my opinion, that's not the case. That  
23 199-13(A) specifies "except as specified herein in this  
24 article".

25 BOARD MEMBER FINDLEY: I'm going to read that again.

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- RE: JODI CAVANAUGH -

But we can proceed. I would still like her to be aware that and possibly them.

(Time noted: 8:40 a.m.)

\* \* \* \* \*



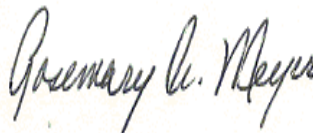
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REPORTER'S CERTIFICATION

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

That the foregoing transcript is an accurate record of the proceedings in the matter of Jodi Cavanaugh, 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: December 21, 2018

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X

EXECUTIVE SESSION

----- X

Town Hall  
Town of Mamakating  
October 21, 2018  
7:19 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
- MICHELE HARRINGTON, Building Department

JERIC CORPORATION  
Court Reporting Services  
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Reported by: Rosemary A. Meyer

1                   - RE: EXECUTIVE SESSION -

2           CHAIRMAN MORDAS: We're going to go in reserve for one  
3 more applicant. We'll get through these before we get into  
4 public hearings. Nook Key 2, Limited Liability  
5 Corporation.

6           MS. PLATT: (Inaudible comment.)

7           CHAIRMAN MORDAS: Okay. Maybe we'll put them on the  
8 back burner.

9           All right.

10          CHAIRMAN MORDAS: Due the potential for future  
11 litigation, I'm requesting a motion that the Board go into  
12 Executive Session.

13          BOARD MEMBER FINDLEY: I'll make that motion.

14          CHAIRMAN MORDAS: Do I have a second?

15          BOARD MEMBER MORREALE: I'll second it.

16          CHAIRMAN MORDAS: All in favor?

17          BOARD MEMBER RAMPE: Aye.

18          BOARD MEMBER DAWKINS: Aye.

19          BOARD MEMBER FINDLEY: Aye.

20          BOARD MEMBER MORREALE: Aye.

21          CHAIRMAN MORDAS: Aye.

22                   (The motion was approved and carried.)

23          CHAIRMAN MORDAS: And can I ask Kyra to be at the  
24 Executive Session?

25          MR. MOGEL: I don't see anybody raising an objection.

1                   - RE: EXECUTIVE SESSION -

2           CHAIRMAN MORDAS: Okay. Then yes, I'd like for Kyra  
3 to attend.

4                   (The Board recessed for Executive Session at  
5 7:19 p.m.)

6                                   \* \* \* \* \*

7                   (The Board came out of Executive Session at  
8 8:08 p.m.)

9           CHAIRMAN MORDAS: Do I have a motion to come out of  
10 Executive Session?

11           BOARD MEMBER RAMPE: I make a motion.

12           CHAIRMAN MORDAS: Do I have second?

13           BOARD MEMBER MORREALE: I'll second it.

14           CHAIRMAN MORDAS: All in favor?

15           BOARD MEMBER RAMPE: Aye.

16           BOARD MEMBER DAWKINS: 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: 8:08 p.m.)

22                                   \* \* \* \* \*

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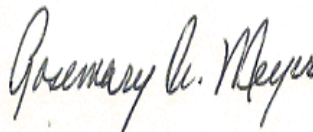
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REPORTER'S CERTIFICATION

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 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: December 21, 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  
October 25, 2018  
8:08: P.M.

ZONING BOARD MEMBERS :

- MATTHEW MORDAS, Chairman
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Also Present: Mary Helen Micinowski, Applicant

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Reported by: Rosemary A. Meyer

1                   - RE: M.H. MICINOWSKI -

2           CHAIRMAN MORDAS: Okay. This is going to be a  
3 continuation of the public hearing regarding Mary Helen  
4 Micinowski, her request for appeal of Mary Grass' decision  
5 regarding waste and also livestock density.

6           But before we go any further, Ms. Dawkins needs to  
7 make a statement.

8           BOARD MEMBER DAWKINS: As I mentioned here before, I'm  
9 a member of the Board of Directors of the Yankee Lake  
10 Preservation Association. Periodically, I assist in  
11 preparing correspondence to the YLPA president.

12           Over the weekend preceding September 18th I was asked  
13 to write a few letters of thanks for people/businesses who  
14 had donated time, product, services for a new basketball  
15 court the YLPA is building for our community. One set of  
16 letters was to representatives of Pine Bush Equipment,  
17 including a member of the Boniface family, who have been  
18 before the ZBA arguing in the Micinowski case. It seems  
19 that Pine Bush Equipment donated the use of a piece of  
20 heavy equipment for YLPA volunteers to use to roll  
21 gravel. This donation had a value of \$600.

22           So I wrote two letters from the YLPA to the PBE  
23 employees who were instrumental in providing the donation.  
24 The letters were not sent under my signature. They were  
25 signed by the YLPA president, the YLPA vice president and

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2 basketball court board members leading the project. I had  
3 no authority to make the decision to either ask for accept  
4 the donation. I didn't even know about it until after the  
5 work was completed.

6           I have taken no personal benefit from the donation and  
7 I have no reason to believe that the owners or employees at  
8 Pine Bush Equipment even knew that any member of the ZBA  
9 had any relationship to Yankee Lake.

10           I do not believe that my knowledge of this donation  
11 will have any impact on my ability to evaluate the case as  
12 presented. It does not change my view I have regarding the  
13 case, but I can understand that there might be a perception  
14 and I feel it's prudent to announce this publicly.

15           CHAIRMAN MORDAS: Thank you, Cathy.

16           MR. MOGEL: Just a clarification, Cathy, you will not  
17 recuse yourself from this determination?

18           BOARD MEMBER DAWKINS: No.

19           MR. MOGEL: Very good.

20           CHAIRMAN MORDAS: I need to state that the public  
21 hearing has been closed so this is just a straight vote  
22 that we're proceeding with here.

23           With regard to the appeal of a violation, Section  
24 115-4, restrictions on dumping, we received a number of  
25 documents and heard a great deal of testimony. We've been



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2 provided with documentation and testimony that attests to  
3 the negative effect that horse manure may have on a body of  
4 water, as well as documentation and testimony calling that  
5 evidence into question. We have been provided with lab  
6 reports that purport to show that the body of water in  
7 question is contaminated by fecal coliform. We have also  
8 heard evidence which contradicts the idea that the manure  
9 produced on the Micinowski property is detrimental and  
10 questions have been raised as to the source of the  
11 contamination.

12           We, the members of this Zoning Board of Appeals, are  
13 not scientists or experts and we are not supposed to be.  
14 We are supposed to be your neighbors who have been  
15 entrusted to review the evidence we are provided and which  
16 we have been able to obtain to make the determination based  
17 on that evidence.

18           I visited the Micinowski property on or about  
19 September 10th during a rain event. I personally did not  
20 observe any manure being transported from the stables or  
21 paddocks off site. Earlier that month I spoke with Mary  
22 Grass and Mary professed to me that she did not physically  
23 observe manure being washed into the pond.

24           I received a letter, via e-mail, from DEC Officer Mary  
25 Gross. She sent it to me on October 24th of this year.

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2 Please allow me to read that to you.

3             "Below is a summary of my investigation regarding the  
4 Boniface pond.

5             "On June 22nd, 2018, at approximately 1,000 hours, I  
6 met with the Town of Mamakating Code Enforcement Officer  
7 Mary Grass. Miss Grass stated that the Boniface family,  
8 Steven Boniface, was complaining that their pond was being  
9 contaminated from runoff from a horse farm at 49 Birchwood  
10 Drive, Pine Bush, New York. Ozzie Morris lives at and owns  
11 the horses 49 Birchwood Drive.

12             "A small dried up ditch ran through Mr. Morris'  
13 property underneath Birchwood Drive and into the pond.  
14 There was no manure contaminating the ditch or close enough  
15 to contaminate runoff.

16             "While inspecting the pond, a Class B(t) trout stream  
17 was located adjacent to the property. The stream was  
18 diverted with large rocks so that water flowed into the  
19 pond.

20             "On July 10, 2018, DCO Gross met with Steve Boniface  
21 at the property on Birchwood Drive. A summons was issued  
22 for disturbing a protected stream. The summons is  
23 returnable to the Town of Mamakating on August 23rd, 2018.

24             "Mr. Boniface also provided results for a water sample  
25 collected in the pond regarding the original complaint.

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2 Samples were tested by OCL Analytical Services of  
3 Bloomingburg, New York. The sample numbers are 341194-01  
4 from June 5th, 2018, and 342016-02 from June 26th, 2018.  
5 The total coliform fecal results were 920 cfu per 1,000  
6 milliliters and greater than 600 cfu per 100 milliliters,  
7 respectively.

8           "On July 16, 2018 I contacted the Boniface family to  
9 see if there were any other water samples from the past  
10 collected as comparison. The Bonifaces stated they had  
11 water samples taken last year, but were not able to locate  
12 the reports. I contacted OCL Analytical Services in  
13 regards to the samples taken by Mr. Steven Boniface. The  
14 lab stated that the source of the coliform fecal levels  
15 cannot be identified, i.e., horses versus human, versus  
16 otherwise. There is also a possibility of contamination  
17 coming from upstream since the stream flows into the pond.  
18 Additionally, there is no proof of where the sample was  
19 collected by Mr. Steven Boniface.

20           "There were no violations of the ECL observed, and  
21 contamination of the pond by Mr. Morris' horse farm was  
22 unfounded.

23           "Mary Gross, Environmental Conservation Officer,  
24 Region 3."

25           All right. Before I go any further, I'm going to read

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2 this violation right from the code.

3           Section 115-4, Subsection, Restrictions on Dumping:

4           No person shall use any of the lands within the Town  
5 of Mamakating as a dump or dumping grounds, nor shall any  
6 person throw, dump, deposit or place on such lands, or  
7 cause to be thrown, dumped, deposited or placed on such  
8 land any garbage, decaying, rotting refuse and waste,  
9 offensive or noxious substances, refuse, sewage or any  
10 other waste material or waste substances such as (but not  
11 limited to) inoperable, unregistered or junk vehicles,  
12 machines, appliances, bottle, cans, garbage, trash,  
13 rubbish, litter, contents of cesspools and septic tanks,  
14 fecal matter or sewage, nor dispose or attempt to dispose  
15 of any such material, substances or matter by burying the  
16 same on such land, or burning or incinerating the same on  
17 such lands.

18           The conditions that were cited by Mary Grass were you  
19 are causing animal sewage to run off your property into  
20 neighboring properties.

21           Taking all of the evidence into account, I do not  
22 believe that adequate evidence of violation of the  
23 restriction on dumping has been presented to this board.  
24 Consequently, I move that the Board reverse the Notice of  
25 violation dated June 14, 2018 citing a violation of Section

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2 115-4 of the Town of Mamakating Code which found the  
3 Appellant, Mary Helen Micinowski, caused animal sewage to  
4 run off her property onto neighboring properties.

5             Before we hold the vote, would any Board members like  
6 to speak in regards to this matter?

7             BOARD MEMBER DAWKINS: I will.

8             With regard to that particular issue, while the recent  
9 issues of algae, bacteria and sedimentation are surely  
10 concerning to the neighboring pond owner, unless evidence  
11 can scientifically attribute the recent changes in pond  
12 characteristics either solely or substantially to the  
13 horses on the Micinowski property, I have no basis to do so  
14 on my own. These recent algae, bacteria and sedimentation  
15 issues could be related to other factors such as  
16 neighboring septic, upstream septic, stormwater runoff  
17 from uphill and upstream activities, yards, gardens, lawns,  
18 fertilizers, importation of foreign matter such as sand,  
19 gravel and fill for beaches and landscaping, or inflow from  
20 a nearby stream. In fact, it appears, based on the  
21 evidence presented by the neighbors, that the one factor  
22 that has not changed over the years is the presence of  
23 horses on the Micinowski property or the manner in which  
24 the Micinowskis manage their farm.

25             In summary, there has been no scientific or

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2 professional evidence to substantiate that the Micinowski  
3 property or their horses are responsible for any of the  
4 health problems in the community. In fact, just yesterday  
5 I received an e-mail where DEC Officer Mary Lou Gross  
6 confirms precisely this point. Ms. Gross states, "There  
7 was no manure contaminant in the ditch or close enough to  
8 contaminate runoff," and later concludes, and I quote,  
9 "There were no violations of the ECL observed and  
10 contamination of the pond by Mr. Morris' horse farm was  
11 unfounded."

12           CHAIRMAN MORDAS: Okay. All right. Do I have a  
13 motion to proceed to a vote on this --

14           BOARD MEMBER FINDLEY: I'll make a motion.

15           CHAIRMAN MORDAS: -- on the issue of this violation?

16           Do I have a second?

17           BOARD MEMBER RAMPE: I'll second.

18           CHAIRMAN MORDAS: All right.

19           In regards to the reversal of the Notice of Violation  
20 dates June 14, 2018, Section 115-4, at the Micinowski  
21 property, how does the Board vote?

22           BOARD MEMBER FINDLEY: I just want to be clear. A yes  
23 vote is in favor of reversal.

24           CHAIRMAN MORDAS: Reversal, yes. How do you vote,  
25 Kent?

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2           BOARD MEMBER FINDLEY: Yes.

3           CHAIRMAN MORDAS: Matthew?

4           BOARD MEMBER MORREALE: Yes.

5           CHAIRMAN MORDAS: I'll vote yes.

6           Cathy?

7           BOARD MEMBER DAWKINS: Yes.

8           CHAIRMAN MORDAS: Georgia?

9           BOARD MEMBER RAMPE: Yes.

10          CHAIRMAN MORDAS: Okay.

11          All right. The next issue is the question of density,  
12 the appeal of the violation of the Town of Mamakating Code  
13 199-17(C) which provides that: The animal density shall  
14 not exceed 1,000 pounds of livestock based on mature weight  
15 for each two acres of open land (pasture or cropland) which  
16 may be located on an individual lot or a combination of  
17 contiguous lots. For purposes of this chapter, mature  
18 weight shall be deemed to be the equivalent of the  
19 following.

20           I'm just going to focus on horses, 1,200 pounds.

21           Conditions found. All right. You are allowed one  
22 mature weight horse for each two acres of open land. You  
23 are only allowed one horse on your property. You must  
24 reduce the number of horses on your property to one horse  
25 immediately.

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2             On this matter, the Board has similarly heard a great  
3 deal of evidence. It is unquestionable that the number of  
4 horses upon the subject property greatly exceed the  
5 permitted number under 199-17. It is also uncontested that  
6 the property owners did their appropriate due diligence at  
7 the time of purchase of the property to ensure that the use  
8 they contemplated for the property was legal and  
9 appropriate. It is unquestionable that the Town advised  
10 these property owners that there was no simple limit to the  
11 number of animals they could house on the property.  
12 However, if a health hazard is created, the Town would take  
13 legal action to have it corrected. I'm quoting Mr. John  
14 Griffo, Code Enforcement Officer, from a letter dated  
15 August 28, 1996.

16             "I've enclosed a copy of the Cornell Cooperative  
17 Extension guidelines which recommends a minimum lot size of  
18 three acres for keeping of livestock." This property is  
19 two and a half acres.

20             There's been no evidence or allegations that the  
21 animals have been mistreated in any way. On the contrary,  
22 all the testimony and evidence suggests that the  
23 Micinowskis are excellent caretakers of the animals staying  
24 on their property and have been so for a number of years.

25             As stated before, we have ruled that there is



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2 insufficient evidence that the contamination of the  
3 waterbody are due from the horses on the subject property.  
4 However, as stated before, there's no question that the  
5 number of horses upon the subject property greatly exceed  
6 the permitted number, the permitted number, under 199-17.  
7 Therefore, I propose the ZBA grant a conditional variance  
8 to the Micinowskis.

9           But before that, would any board members like to speak  
10 on this matter before we vote?

11           BOARD MEMBER DAWKINS: I wanted to read some of the  
12 criteria I have discovered and researched.

13           MR. MOGEL: Did you want to first address? You have  
14 additional writing about it. Did you want to address your  
15 opinions on it and then propose the conditions?

16           BOARD MEMBER DAWKINS: Okay.

17           Parts of it, I would just reiterate what Matt just  
18 wrote. I'm not going to put you through listening to my  
19 words the same as his. But in light of what we've just  
20 talked about, the next question in my mind is what is a  
21 reasonable number of horses for this property considering  
22 the original limitations that were set forth on the  
23 Micinowskis, as well as the animal safety and neighborhood  
24 impacts.

25           I reviewed materials provided and conducted my own

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2 research to assess a reasonable density. First, one of the  
3 things I discovered, the number of horses per acre seems to  
4 depend on whether or not the animals will depend on grazing  
5 or have feed supplements. The number of horses per acre  
6 also seems to depend on what strategies are used to manage  
7 these impacts per the Equine Land Conservation Resource.  
8 That's at [elcr.org](http://elcr.org).

9           I would also like to draw on a New York Times article  
10 from 2012 which discusses zoning regulations in New York  
11 State with the specific focus on equine use in residential  
12 areas. Specifically, and now I'm quoting: "Zoning for  
13 equine use varies by town. According to the task force  
14 report, in Huntington, an acre is the minimum size for  
15 keeping horses on residential property with a maximum of  
16 three horses per acre. In Islip, a half an acre suffices  
17 with a maximum of four horses permitted per acre.  
18 Smithtown, a half acre zoning permits up to three horses  
19 per acres."

20           The current Town of Mamakating Code clearly would only  
21 allow one horse on the property in question, but we do not  
22 know what the basis for this limitation is, but clearly,  
23 other experts deemed that higher density is both safe and  
24 manageable.

25           Do you want me to tell you my conclusion?

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2             Based on this and the Mamakating Code, I came to the  
3 conclusion that a reasonable number of horses for this  
4 property is probably four. So that was the conclusion I  
5 came to. I have thoughts about how to achieve that. I  
6 don't know if you want to address that now or later.

7             CHAIRMAN MORDAS: Do you propose a motion with  
8 conditions?

9             BOARD MEMBER DAWKINS: I would propose a motion that  
10 we provide a variance for the property owner to be allowed  
11 to reduce their herd to four through attrition, either the  
12 death or sale of their horses. Under no circumstances  
13 should the property owner introduce any new horse that  
14 would result in the total of horses of more than four.

15             Should any horse give birth while living on the  
16 property, the new foal will be kept for no more than six  
17 months unless the total number of horses remains at four or  
18 fewer.

19             The owner shall not board horses that they do not own  
20 unless the total number of horses on the property is equal  
21 to or fewer than four.

22             I would also propose that this variance expire upon  
23 transfer of the property to any other owner other than Miss  
24 Micinowski or Mr. Morris unless a Town of Mamakating  
25 Planning Board special use permit is obtained pursuant to

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2 Code 199-17(A). This variance would not in any way  
3 infringe on the ability and authority of the Building  
4 Department of the Town of Mamakating to enjoin any health  
5 or environmental hazards that may exist or may arise in the  
6 future.

7           CHAIRMAN MORDAS: All right. Board, this is the  
8 motion on the floor.

9           MR. MOGEL: If someone would move and second the  
10 motion and then you could discuss it.

11          CHAIRMAN MORDAS: I second the motion.

12          Would any Board members like to discuss this?

13          BOARD MEMBER MORREALE: I think the expiration of the  
14 variance at the transfer of the property is a bit  
15 excessive. The Micinowskis are in this position through no  
16 fault of their own. We're not only asking them to reduce  
17 the size of the herd, but affecting the property value, as  
18 well. That is my concern. Otherwise, I agree with what  
19 you said.

20          CHAIRMAN MORDAS: Kent, anything to say?

21          BOARD MEMBER FINDLEY: I would concur with Matt. The  
22 expiration part I do not agree with.

23          CHAIRMAN MORDAS: Okay.

24          BOARD MEMBER FINDLEY: Otherwise, the motion is  
25 acceptable.

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2           CHAIRMAN MORDAS: All right. Georgia.

3           BOARD MEMBER RAMPE: I agree with Cathy, that upon  
4 sale of the property it should conform to the code.

5           MR. MOGEL: Based on the motion on the floor.

6           CHAIRMAN MORDAS: Okay, Kent, how do you vote?

7           BOARD MEMBER FINDLEY: I vote no.

8           CHAIRMAN MORDAS: Georgia

9           BOARD MEMBER RAMPE: I vote yes.

10          CHAIRMAN MORDAS: Cathy

11          BOARD MEMBER DAWKINS: Yes.

12          CHAIRMAN MORDAS: Matthew.

13          BOARD MEMBER MORREALE: No.

14          CHAIRMAN MORDAS: I'll vote yes.

15                                   (The motion was carried and approved.)

16          CHAIRMAN MORDAS: All right.

17          MR. MOGEL: The motion, as presented, passes.

18          CHAIRMAN MORDAS: The motion, as presented, passes.

19          All right. Thank you for your testimony and your  
20 patience.

21          MS. MICINOWSKI: Can I just clarify? So our horses  
22 are okay with staying unless one dies or we sell them. And  
23 they have to --

24          CHAIRMAN MORDAS: It's attrition. So if you sell or  
25 there's mortality --

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2           MS. MICINOWSKI: If there's a mortality, okay.

3           CHAIRMAN MORDAS: -- down to four.

4           MS. MICINOWSKI: Right now we're safe with where we  
5 are.

6           CHAIRMAN MORDAS: You're safe where you are as long as  
7 you abide by the Town's criteria that you meet all the  
8 health issues and don't disturb the neighborhood with  
9 excessive noise, et cetera.

10          MS. MICINOWSKI: We're fine. We've never done that.

11          MR. MORRIS: Thank you very much.

12          MS. MICINOWSKI: I thank everyone. I know this has  
13 been a difficult decision and I thank you all for your  
14 diligence in reviewing everything and taking the time to  
15 come to this decision. Thank you very much.

16          CHAIRMAN MORDAS: We took all evidence under  
17 consideration that was presented by both parties.

18          MS. MICINOWSKI: And I appreciate that face.

19          CHAIRMAN MORDAS: Mr. Boniface.

20          MR. BONIFACE: Are you at least going to have them do  
21 something about the mountain of manure that's on the  
22 property, that the runoff is running in our pond? It says  
23 in all the reports it has to be managed properly. That  
24 can't be proper management. There's a mountain there.

25          MR. MOGEL: The Board issued two determinations.

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2   There were two violations that were cited. The one that  
3   pertained to what purports to be dumping which pertains to  
4   the manure, the Board unanimously reversed the  
5   determination by Mary Grass and they did so based on the  
6   evidence that was presented to them. I think the Board  
7   made it clear that they based their determination that  
8   there was truly insufficient evidence to tie the  
9   contamination of the pond to specifically the horses. That  
10  was the determination of the Board. It was predicated on  
11  all of the evidence that was presented and the evidence  
12  that was cited.

13           CHAIRMAN MORDAS: Yes, sir. Please state your name.

14           MR. K. BONIFACE: Ken Boniface.

15           CHAIRMAN MORDAS: I'm sorry. Could you please step up  
16  to the microphone?

17           MR. K. BONIFACE: I wasn't able to make the first  
18  public meeting because I had a family issue, but Ozzie was  
19  lying at the other meeting and said that I dug a ditch and  
20  drained everything down onto his property, which was my  
21  grandfather put that ditch in 50 years ago to keep the  
22  stream from washing down the road because when I was a kid  
23  I used to be able to fish right out in the middle of the  
24  road. So Ozzie just put this big huge berm to figure he's  
25  going to just stop the water, but all he did was back the

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2 water up onto my property, so now it can't run where it's  
3 supposed to run. So he actually flooded my property. He  
4 doesn't understand that the water has to -- he's the lowest  
5 on that road.

6           CHAIRMAN MORDAS: Mr. Boniface, with all due respect,  
7 I don't know how the Zoning Board can weigh into this  
8 particular issue.

9           MR. K. BONIFACE: Well, if you're flooding somebody's  
10 property ...

11          MR. MOGEL: From a legal standpoint, and I don't mean  
12 to denigrate anything that you're saying, but the Board had  
13 a public hearing and that public hearing closed. I know  
14 the Board can be informal at times by allowing members of  
15 the public to comment as you all did just now, but no new  
16 evidence -- the time for producing any additional evidence  
17 has now come and gone. The Board made its determination on  
18 that basis. I think that the Chairman is trying to be  
19 polite and to allow you the opportunity to maybe state how  
20 you feel about this, but in terms of consideration of new  
21 evidence, you just wouldn't be able to do that.

22          MR. K. BONIFACE: Well, when you have a mountain of  
23 manure that you never take off the property, after a while,  
24 he's not going to be able to have one horse there because  
25 it just keeps going out and going out and going out. There



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2   won't be anyplace to ride a horse in five more years from  
3   now because the horse will produce so much waste every year  
4   and if he never takes anything out, I mean we're offered to  
5   give him machinery. We've offered to let people come and  
6   take it and he won't even -- I mean we used to be friendly  
7   neighbors. I used to let him dump his manure up on my  
8   property and we mixed it with topsoil and we would get rid  
9   of it. That was all well and good until the guy stopped  
10  making topsoil and sold the screen plant. So I told him, I  
11  can't let you dump here no more. But I still let him ride  
12  and let his clients ride horses all through my property.

13           CHAIRMAN MORDAS: I hope you folks could kind of  
14  rekindle that past relationship you have and work together  
15  on this.

16           MR. K. BONIFACE: Well, let me just finish telling my  
17  story.

18           So when I stopped him from dumping it, he put a gate  
19  in and he just took his manure over onto my property and  
20  started dumping it and he had a ramp as high as that. Not  
21  only just manure, I got pictures, TVs and old hoses and  
22  computer stuff, and just dumped everything right onto my  
23  property. And I dug it back out and put it over on his  
24  side of the fence.

25           CHAIRMAN MORDAS: Did you bring this up to the

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2 Building Inspector?

3           MR. K. BONIFACE: No. I always dealt with him myself.  
4 I said, I'm going to put it back over on you. And now it's  
5 still sitting there and he just keeps adding to it and  
6 adding to it. And it's definitely -- if you didn't see  
7 horse manure floating through that water and going down  
8 that pipe and going into our pond --

9           CHAIRMAN MORDAS: I was there in a pretty heavy  
10 rainstorm. Mr. Steven Boniface can attest to that.

11          MR. K. BONIFACE: Well ...

12          CHAIRMAN MORDAS: And I didn't see it at that time.  
13 Well, maybe there was another time, but when I was out  
14 there I didn't see it.

15          MR. K. BONIFACE: Well, there will be more evidence to  
16 prove what's going on because it's obvious. When you see  
17 the water running through the pipe and you see chunks of  
18 horse manure --

19          MS. PLATT: Sir, the public comments is closed.

20          MR. K. BONIFACE: Yeah.

21          MR. MOGEL: Let me just state this. This board is a  
22 board of limited jurisdiction. By statute, it has a very  
23 narrow mandate as to what it can do, what it can hear and  
24 how it's supposed to evaluate that. The Board did that.  
25 This is not the sole venue for you to receive what you

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perceive to be justice. There are other places you can go.  
It's not the role of this board. This board made its  
determination on appeal of two violations and that's the  
Board's determination.

MR. K. BONIFACE: Well, it's a major health issue when  
you have four horses on a one acre property.

MR. MOGEL: Thank you.

CHAIRMAN MORDAS: Thank you, Mr. Boniface.

MS. MICINOWSKI: Thank you.

(Time noted: 8:36 p.m.)

\* \* \* \* \*

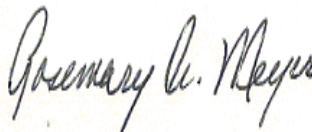
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REPORTER'S CERTIFICATION

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

That the foregoing transcript is an accurate record of the proceedings in the matter of 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: December 22, 2018

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X  
Nook Key 2, LLC  
Interpretation of Violation  
Tax Map Section 49; Block 1; Lot 2.4  
Town Center Zone  
----- X

Town Hall  
Town of Mamakating  
October 25, 2018  
8:41 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
- MICHELE HARRINGTON, Building Department

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

Reported by: Rosemary A. Meyer

1                                   - RE: NOOK KEY LLC -

2           MR. MOGEL: Do you want to call Nook Key again to see  
3 if they're here?

4           CHAIRMAN MORDAS: Yes, we can try that.

5           Okay. Is Nook Key 2 LLC here tonight?

6                                 (No verbal response.)

7           MR. MOGEL: Didn't show.

8           I would propose to the Board that unless there is some  
9 compelling reason Nook Key subsequently provides, that the  
10 application be regarded as abandoned.

11           CHAIRMAN MORDAS: All right.

12                                 (Time noted: 8:42 p.m.)

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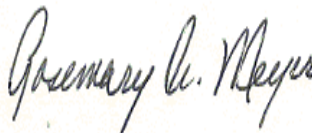
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REPORTER'S CERTIFICATION

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 Nook Key 2 LLC, 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: December 23, 2018

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X  
Gary & Marie Zeigler  
Area Variance  
Tax Map Section 64; Block 1; Lot 72.10  
Winterton Residential Agricultural Zone  
----- X

Town Hall  
Town of Mamakating  
October 25, 2018  
8:41 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
- MICHELE HARRINGTON, Building Department

Also Present: Gary & Marie Zeigler, Applicants

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

Reported by: Rosemary A. Meyer



1                   - RE: G. & M. ZEIGLER -

2           CHAIRMAN MORDAS: All right. Next on the agenda is  
3 Gary and Marie Zeigler.

4           Please step up to the podium, refresh us as to your  
5 situation here.

6           MS. M. ZEIGLER: We are seeking a variance for a 12 by  
7 22 foot shed that we installed in our back yard that the  
8 building inspector said is closer to the street than the  
9 street wall of our house, and a pool which is somehow  
10 determined to be in our side yard and not our back yard.

11           CHAIRMAN MORDAS: Any questions from the Board?

12           BOARD MEMBER DAWKINS: No.

13           CHAIRMAN MORDAS: Kent.

14           BOARD MEMBER FINDLEY: I will in a minute, but I need  
15 to read something.

16                   (Board Member Findley examining the code.)

17           CHAIRMAN MORDAS: Now, on the shed, the electrical  
18 work, did you have that inspected by --

19           MS. M. ZEIGLER: Yes. We submitted that to the  
20 building inspector.

21           CHAIRMAN MORDAS: Okay.

22           MR. G. ZEIGLER: And the pool.

23           BOARD MEMBER DAWKINS: And the shed has electric but  
24 no other utilities?

25           MS. M. ZEIGLER: Correct.

1                   - RE: G. & M. ZEIGLER -

2           CHAIRMAN MORDAS: Any other questions from the Board?

3                   (No verbal response.)

4           CHAIRMAN MORDAS: No further questions for the  
5 Zeiglers at this time from the Board?

6                   (No verbal response.)

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

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

10          BOARD MEMBER DAWKINS: Second.

11          CHAIRMAN MORDAS: All in favor?

12          BOARD MEMBER RAMPE: Aye.

13          BOARD MEMBER DAWKINS: Aye.

14          BOARD MEMBER FINDLEY: Aye.

15          BOARD MEMBER MORREALE: Aye.

16          CHAIRMAN MORDAS: Aye.

17                   (The motion was approved and carried.)

18          CHAIRMAN MORDAS: Before we go any further, were the  
19 mailings done to your satisfaction?

20          MS. HARRINGTON: Yes.

21          CHAIRMAN MORDAS: All right. And were the  
22 notifications to the local newspapers done in a timely  
23 fashion?

24          MS. HARRINGTON: Yes.

25          CHAIRMAN MORDAS: Thank you.

1                   - RE: G. & M. ZEIGLER -

2           All right. Anybody from the audience on the list to  
3 speak in regards to this application?

4           MS. PLATT: No.

5           CHAIRMAN MORDAS: All right.

6           MS. M. ZEIGLER: I don't think that anybody can see  
7 either the shed or the pool.

8           CHAIRMAN MORDAS: Well, definitely your neighbors to  
9 the far end of the cul de sac. You have that thing tucked  
10 in the hillside there.

11           You know, I was up at the property. If you're in  
12 violation, it's not by that many feet. How many acres do  
13 you have? 3.236 acres.

14           MS. M. ZEIGLER: Correct.

15           CHAIRMAN MORDAS: What's the issue with the pool?

16           MS. M. ZEIGLER: Well, initially, there was no issue,  
17 but then when the -- I don't know if it was the building  
18 inspector took a second look or what, she now says that  
19 that's in our side yard, not in our back yard.

20           CHAIRMAN MORDAS: Okay.

21           MS. M. ZEIGLER: But again, you can't see it from  
22 anyplace other than once you start to come up our driveway  
23 or almost to the top of the driveway. The house doesn't  
24 really face the street straight on.

25           BOARD MEMBER DAWKINS: And the street is curved.

1                   - RE: G. & M. ZEIGLER -

2           MS. M. ZEIGLER: Correct.

3           MR. G. ZEIGLER: And it's a cul de sac.

4           MS. PLATT: So 199-13(F).

5           CHAIRMAN MORDAS: F.

6           BOARD MEMBER FINDLEY: What's 199-13(F).

7           BOARD MEMBER RAMPE: Pool. That's what she has on her  
8 denial form.

9           BOARD MEMBER MORREALE: Yes.

10          BOARD MEMBER FINDLEY: One other thing to potentially  
11 consider is 199-9(H). I think H, flag lots. This is D.  
12 Exclusive of the flagpole, the flag lot shall meet all bulk  
13 requirements except yard requirements for the zoning  
14 district in which it's located. There shall be no yard  
15 requirements for flag lots.

16          CHAIRMAN MORDAS: What is the definition of yard  
17 requirements?

18          BOARD MEMBER DAWKINS: Front yard, Side yard, rear  
19 yard setbacks.

20          MS. PLATT: Do you want the definition?

21          MR. MOGEL: Yes.

22          MS. PLATT: So yard regulations, side yard of corner  
23 lots, on a corner lot each yard fronting on a street shall  
24 be deemed a front yard. At the owner's discretion one yard  
25 other than a front yard shall be deemed to be a rear yard.

1                   - RE: G. & M. ZEIGLER -

2           All of them?

3           BOARD MEMBER FINDLEY: We would consider this a flag  
4 not; no?

5           CHAIRMAN MORDAS: Yes.

6           BOARD MEMBER FINDLEY: Okay.

7           CHAIRMAN MORDAS: Your road frontage needs to be  
8 somewhere in the 50, 40, 50 foot range.

9           MR. G. ZEIGLER: How much of our property is ...

10          BOARD MEMBER DAWKINS: Is road frontage.

11          BOARD MEMBER MORREALE: On the road.

12          BOARD MEMBER DAWKINS: Small.

13          MS. M. ZEIGLER: It is small, yes.

14          BOARD MEMBER DAWKINS: So this is your road frontage.

15          MS. M. ZEIGLER: It's definitely not 40 or 50.

16          BOARD MEMBER RAMPE: So on a flag lot you're not  
17 supposed to consider ...

18          BOARD MEMBER MORREALE: The language seems --

19          BOARD MEMBER FINDLEY: The language seems very clear  
20 to me but I revert ...

21           And I'm also assuming I have the most current edition.  
22 I don't really know.

23          BOARD MEMBER MORREALE: Well, yes, the newest member's  
24 edition; yes.

25          MEMBER DAWKINS: I think what she's doing is she's

1                   - RE: G. & M. ZEIGLER -

2 measuring here to here, a straight line. Then she measures  
3 here to here. Well, this is behind the house, but the road  
4 seems closer.

5           BOARD MEMBER MORREALE: Right.

6           BOARD MEMBER DAWKINS: The road bumped up which is why  
7 you get this visual illusion.

8           BOARD MEMBER RAMPE: But wait a minute. where is the  
9 front? This is the front.

10          BOARD MEMBER DAWKINS: This is the front. This is the  
11 front yard. So no structure can be closer to the road than  
12 the front line of your house. Well, this line right here,  
13 if you measure these lines, they're shorter but they're not  
14 closer.

15          MR. MOGEL: Yes. I mean as long as it's a flag lot  
16 and this is what it's going to governed by. So then there  
17 would be -- yes, I'm going to have to agree.

18          BOARD MEMBER FINDLEY: We have the 25 foot buffer,  
19 though.

20          MR. MOGEL: Is a minimum area of 25 feet in width  
21 should be designated along all the property lines. No  
22 construction within that designated buffer area except  
23 driveways.

24               Does that conform with what's there?

25          BOARD MEMBER FINDLEY: I didn't look at it. I just

1                   - RE: G. & M. ZEIGLER -

2 wanted to ...

3           CHAIRMAN MORDAS: I don't know if the code is poorly  
4 written here, Steve, because it says yard requirements and  
5 then you go to 199-12, it says yard regulations.

6           MR. MOGEL: Where are you getting the definition?

7           MS. PLATT: That was 199-12. But side lots are a  
8 separate thing. It really just breaks out Planning Board  
9 stuff and creating new lots so I don't --

10          MR. MOGEL: Which we have to assume that the lot was  
11 created by the Planning Board at some point.

12          MS. PLATT: Well, it's a subdivision. Oh, sorry. No,  
13 this is a subdivision.

14          BOARD MEMBER FINDLEY: Yes, it's a subdivision.

15          MR. MOGEL: It was created by the Planning Board.

16          MS. PLATT: Yes.

17          MR. MOGEL: I would say that that section would apply  
18 and this would be governed by 199-9 and that the yard  
19 setbacks wouldn't be applicable. But the other  
20 requirements of 199-9(H) would be applicable.

21          BOARD MEMBER RAMPE: Which says what?

22          MR. MOGEL: Well, we've got 199-9(H) ...

23          BOARD MEMBER FINDLEY: Twenty-five foot buffer.

24          MS. PLATT: Minimum lot width?

25          MR. MOGEL: D is the one that says there's no yard

1                   - RE: G. & M. ZEIGLER -  
2 requirement for flag lots. And then E, minimum flagpole  
3 width of 25 feet shall be provided. And G, a minimum  
4 buffer area of 25 feet in width shall be designated along  
5 all the property lines of a flag lot. There should be no  
6 construction within the designated buffer area except  
7 driveways.

8           We don't have an issue with minimum lot width;  
9 correct?

10          BOARD MEMBER FINDLEY: It doesn't appear that way.

11          MR. MOGEL: And then minimum building setback line,  
12 that's no issue there.

13          So 25 feet. So the question is is this proposed  
14 structure or structures ...

15          CHAIRMAN MORDAS: We've got the shed over here and the  
16 pool over here.

17          BOARD MEMBER DAWKINS: The pool --

18          MR. G. ZEIGLER: It's more than 25 feet.

19          BOARD MEMBER FINDLEY: From the representation, it  
20 appears that way.

21          MR. MOGEL: Do you know how far the shed is from the  
22 lot line?

23          BOARD MEMBER FINDLEY: Scaling off, this is in excess  
24 of 25 feet.

25          BOARD MEMBER RAMPE: It's in excess of 25 feet?



1                   - RE: G. & M. ZEIGLER -

2           BOARD MEMBER FINDLEY: Yes.

3           BOARD MEMBER RAMPE: I know I asked that question. I  
4 have more than 30. Oh, no.

5           BOARD MEMBER FINDLEY: Do you have any idea of what  
6 this line represents on this map?

7           MR. MOGEL: I don't think it matters. It's a flag  
8 lot, then there's no yard requirements. The only  
9 requirement is that be 25 feet the property line.

10                   (Inaudible due to multiple speakers.)

11           BOARD MEMBER MORREALE: From this corner of the house  
12 to your property line is 125 feet.

13           MR. G. ZEIGLER: Oh, okay.

14           MR. MOGEL: Gentlemen, you need to raise your voice so  
15 that the stenographer can hear you.

16           BOARD MEMBER FINDLEY: It appears from the  
17 representation that that shed is greater than 25 feet away  
18 from the property line.

19           MR. MOGEL: From the property line.

20           CHAIRMAN MORDAS: I would say so with near certainty.

21           MR. MOGEL: So the building permit denial, so the  
22 denial -- I mean it still indicates --

23           The violation is for 199-13(C)(G). So it's saying  
24 that the accessory structure is located closer to the  
25 street than the street wall. That restriction on accessory

1                   - RE: G. & M. ZEIGLER -

2 structures I don't believe would be characterized as a yard  
3 requirement.

4           BOARD MEMBER DAWKINS: It's not a yard setback.

5           MR. MOGEL: It's not a yard setback. I would believe  
6 that those yard restrictions are pertaining to the rear,  
7 side and front yard setbacks and that's not what's at issue  
8 here.

9           BOARD MEMBER FINDLEY: Well, the pool. The pool ...

10          BOARD MEMBER MORREALE: The pool has to have yard.

11          MS. PLATT: 13(F).

12          BOARD MEMBER DAWKINS: They're both accessory  
13 structures.

14          MR. MOGEL: Pool in the rear yard.

15          BOARD MEMBER DAWKINS: We're talking about proximity  
16 to the street relative to the house.

17          MR. MOGEL: Correct.

18          BOARD MEMBER DAWKINS: And I would contend that those  
19 two structures are in the side yard and back yard. What  
20 has changed is the street, not the proximity of the house,  
21 because you've got a cul de sac. If you measure from the  
22 shed to the edge of the cul de sac rather than to the  
23 center line of the street, you get a completely different  
24 outcome.

25          CHAIRMAN MORDAS: Well, how should we proceed here? I

1                   - RE: G. & M. ZEIGLER -

2 visited the site. Yes, I'm of the same opinion. It's like  
3 you're parsing feet here --

4           BOARD MEMBER DAWKINS: I think it's a --

5           CHAIRMAN MORDAS: -- on a very large lot.

6           BOARD MEMBER DAWKINS: It's a quirk of a curve in a  
7 street, a cul de sac that bumps the street out into the  
8 property that gives an artificial measure even though both  
9 of the structures are clearly in the side yard.

10          BOARD MEMBER MORREALE: Side to rear.

11          BOARD MEMBER DAWKINS: The side to rear.

12          And the only thing that gives you that artificial  
13 measurement is the fact that you've got a cul de sac.

14          CHAIRMAN MORDAS: I didn't bring my walking wheel so  
15 on the safe side should we just grant the variances?

16          BOARD MEMBER DAWKINS: I didn't either. I didn't  
17 bring mine.

18          CHAIRMAN MORDAS: Take a vote on it and see if we can  
19 grant them some relief?

20          BOARD MEMBER DAWKINS: Close the public hearing?

21          BOARD MEMBER RAMPE: And not to mention anything about  
22 it being a flag lot?

23          BOARD MEMBER FINDLEY: I personally think we should  
24 make some sort of a determination.

25          CHAIRMAN MORDAS: All right. Motion to close the

1                               - RE: G. & M. ZEIGLER -

2 public hearing?

3           BOARD MEMBER DAWKINS: So moved.

4           CHAIRMAN MORDAS: Do I have a second?

5           BOARD MEMBER RAMPE: I'll second it.

6           CHAIRMAN MORDAS: All in favor?

7           BOARD MEMBER FINDLEY: Um ...

8           BOARD MEMBER DAWKINS: You can still talk about it.

9 We just want to close the public hearing.

10          BOARD MEMBER FINDLEY: Yes, but if you close the  
11 public hearing we're also bound by time restrictions.

12          MR. MOGEL: Sixty-two days.

13          BOARD MEMBER FINDLEY: Yes. I'm just bringing it up.

14          MR. MOGEL: Sixty-two days.

15          BOARD MEMBER FINDLEY: I think I would have liked to  
16 have it, for some other ones, a little longer.

17          CHAIRMAN MORDAS: You want more time?

18          BOARD MEMBER FINDLEY: We can close it.

19          CHAIRMAN MORDAS: All right. Thank you.

20          Vote to close the public hearing. We had a second;  
21 right?

22          All in favor?

23          BOARD MEMBER RAMPE: Aye.

24          BOARD MEMBER DAWKINS: Aye.

25          BOARD MEMBER FINDLEY: Aye.

1                   - RE: G. & M. ZEIGLER -

2           BOARD MEMBER MORREALE: Aye.

3           CHAIRMAN MORDAS: Aye.

4                   (The motion was approved and carried.)

5           CHAIRMAN MORDAS: All right. Let's see. The motion  
6 on the floor is to grant the Zeiglers relief from  
7 199-13(C)(2).

8           Before we do that vote I need to read the criteria.

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

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

19           How do you feel about that, Kent? Yes or no?

20           BOARD MEMBER FINDLEY: No..

21           CHAIRMAN MORDAS: Matthew.

22           BOARD MEMBER MORREALE: No.

23           CHAIRMAN MORDAS: Georgia.

24           BOARD MEMBER RAMPE: No.

25           CHAIRMAN MORDAS: Cathy.

1                   - RE: G. & M. ZEIGLER -

2           BOARD MEMBER DAWKINS: No.

3           CHAIRMAN MORDAS: No.

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

7           Cathy.

8           BOARD MEMBER DAWKINS: Yes.

9           CHAIRMAN MORDAS: Georgia.

10          BOARD MEMBER RAMPE: Yes.

11          CHAIRMAN MORDAS: I'll say yes.

12          Matthew.

13          BOARD MEMBER MORREALE: Yes.

14          CHAIRMAN MORDAS: Kent.

15          BOARD MEMBER FINDLEY: Yes.

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

18          I will say no.

19          BOARD MEMBER DAWKINS: No.

20          BOARD MEMBER RAMPE: No.

21          BOARD MEMBER MORREALE: No.

22          BOARD MEMBER FINDLEY: No.

23          CHAIRMAN MORDAS: Whether the proposed variance will  
24 have an adverse effect or impact on the physical or  
25 environmental conditions in the neighborhood or district.

1                   - RE: G. & M. ZEIGLER -

2           No.

3           BOARD MEMBER DAWKINS: No.

4           BOARD MEMBER RAMPE: No.

5           BOARD MEMBER MORREALE: No.

6           BOARD MEMBER FINDLEY: No.

7           CHAIRMAN MORDAS: Whether the alleged difficulty was  
8 self-created, which consideration shall be relevant to the  
9 decision of the Zoning Board but shall not necessarily  
10 preclude the granting of the area variance.

11          Kent.

12          BOARD MEMBER FINDLEY: No.

13          CHAIRMAN MORDAS: Matthew.

14          BOARD MEMBER MORREALE: Yes.

15          CHAIRMAN MORDAS: Georgia.

16          BOARD MEMBER RAMPE: Yes.

17          BOARD MEMBER MORDAS: Cathy.

18          BOARD MEMBER DAWKINS: Yes.

19          CHAIRMAN MORDAS: Yes.

20          Okay. All right.

21          BOARD MEMBER RAMPE: Can I just say I'm not  
22 comfortable granting these variances when these violations  
23 are not really violations?

24          CHAIRMAN MORDAS: Without having a measuring device  
25 with me, for the sake of expediency for tonight's meeting

1                   - RE: G. & M. ZEIGLER -

2 and also for the Applicant here --

3           BOARD MEMBER RAMPE: Okay.

4           CHAIRMAN MORDAS: -- I'd rather err on the side of  
5 safety. I also want this to be sort of a lesson to the  
6 Zeiglers to avoid this in the future. If you decide to  
7 build another pool or another shed, if you're going to move  
8 them to different areas, make sure they're a little further  
9 back into your yard.

10           How does the Board vote in regards to granting relief  
11 for the two --

12           Can we combine these structures?

13           MR. MOGEL: Sure, unless there's an objection from  
14 anybody on the Board.

15           CHAIRMAN MORDAS: These two structures from 199-13 --

16           BOARD MEMBER DAWKINS: 13(C)(2).

17           CHAIRMAN MORDAS: -- (C)(2) and (F)?

18           How do you vote Kent?

19           BOARD MEMBER FINDLEY: I vote in favor of granting.

20           CHAIRMAN MORDAS: Matthew.

21           BOARD MEMBER MORREALE: In favor of relief.

22           CHAIRMAN MORDAS: Georgia.

23           BOARD MEMBER RAMPE: The same as them, in favor of  
24 relief.

25           CHAIRMAN MORDAS: Cathy.



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- RE: G. & M. ZEIGLER -

BOARD MEMBER DAWKINS: Yes.

CHAIRMAN MORDAS: I'll be yes on that, too.

(The variance was granted.)

CHAIRMAN MORDAS: Okay.

MS. M. ZEIGLER: Thank you.

CHAIRMAN MORDAS: Nice meeting you folks.

(Time noted: 9:02 p.m.)

\* \* \* \* \*

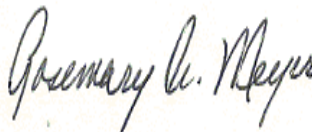
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REPORTER'S CERTIFICATION

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

That the foregoing transcript is an accurate record of the proceedings in the matter of Gary and Marie Zeigler, 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: December 23, 2018

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X

Patricia Antisin  
Area Variance  
Tax Map Section 21; Block 1; Lot 48.2  
Burlingham Residential Zone

----- X

Town Hall  
Town of Mamakating  
October 25, 2018  
9:02 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
- MICHELE HARRINGTON, Building Department

Also Present: Patricia Antisin, Applicant

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

Reported by: Rosemary A. Meyer

1                                   - RE: P. ANTISIN -

2           CHAIRMAN MORDAS: Okay. Ms. Patricia Antisin.

3           Nothing personal. I don't know how you ended up last  
4 here.

5           MS. ANTISIN: Again.

6           CHAIRMAN MORDAS: I don't know how you ended up last  
7 here.

8           MS. ANTISIN: I understand you met my husband.

9           CHAIRMAN MORDAS: I believe so. Yes, yes. I stopped  
10 by the site.

11          MS. ANTISIN: Yes.

12          CHAIRMAN MORDAS: I've got to ask you. Why don't you  
13 move the shed? My feelings are that you have a strange lot  
14 there.

15          MS. ANTISIN: I do.

16          CHAIRMAN MORDAS: It is a candidate for relief but I  
17 question locating that shed so close to the road.

18          MS. ANTISIN: Again, I had mentioned I had visions,  
19 and perhaps still do, of making a horseshoe or a bocce  
20 court in between where we park and the pad there. But I'm  
21 sure after you saw the property, you see that I really  
22 can't comply. It would be very difficult for me to comply  
23 with having the shed not closer to the street because the  
24 house is facing the driveway, so I really don't have enough  
25 room to put it. It would either have to be in front of the

1                                 - RE: P. ANTISIN -

2 house or it would go on the side. And I don't even think  
3 -- I think it would be too close to the property line if I  
4 put it on what would be considered the back of the house  
5 towards the pond because of how the lot --

6             CHAIRMAN MORDAS: I'll agree with you. I'm just sort  
7 of troubled by the proximity to the road. It is sort of  
8 out of character with the neighborhood, Pickles Road there.

9             MS. ANTISIN: I've been that house since 1996 and I've  
10 done nothing but improve that property. So, you know, if I  
11 put up a ramshackle, build it myself. This is Home Depot.

12            CHAIRMAN MORDAS: No --

13            MS. ANTISIN: So ...

14            CHAIRMAN MORDAS: Does the Board have any questions  
15 for Mrs. Antisin?

16                                 (No verbal response.)

17            CHAIRMAN MORDAS: All right. Do I have a motion to  
18 open the public hearing?

19            BOARD MEMBER DAWKINS: So moved.

20            BOARD MEMBER RAMPE: Second.

21            CHAIRMAN MORDAS: All in favor?

22            BOARD MEMBER RAMPE: Aye.

23            BOARD MEMBER DAWKINS: Aye.

24            BOARD MEMBER FINDLEY: Aye.

25            BOARD MEMBER MORREALE: Aye.

1                                 - RE: P. ANTISIN -

2             CHAIRMAN MORDAS: Aye.

3                                 (The motion was approved and carried.)

4             CHAIRMAN MORDAS: Were the mailings done correctly?

5             MS. HARRINGTON: Yes.

6             CHAIRMAN MORDAS: And were the notifications placed in  
7 local newspapers in a timely fashion?

8             MS. HARRINGTON: Yes.

9             CHAIRMAN MORDAS: Thanks, Michele.

10            MS. HARRINGTON: You're welcome.

11            CHAIRMAN MORDAS: Anybody from the audience care to  
12 speak?

13                                 (No verbal response.)

14            CHAIRMAN MORDAS: Mr. Morreale, you care to speak?

15            MR. MORREALE: No, thank you.

16            CHAIRMAN MORDAS: Okay.

17            BOARD MEMBER FINDLEY: How close is the shed?

18            BOARD MEMBER DAWKINS: How close is the shed to what?

19            BOARD MEMBER FINDLEY: To the road.

20            BOARD MEMBER RAMPE: Twelve feet.

21            BOARD MEMBER FINDLEY: That's the road?

22            MS. ANTISIN: No, that the --

23            BOARD MEMBER FINDLEY: That's the driveway.

24            MS. ANTISIN: It's about 35 feet.

25            CHAIRMAN MORDAS: That close? I thought it was close

1                                   - RE: P. ANTISIN -

2 to the road. It would be about 15 feet?

3           MS. ANTISIN: No, no, no. This is the picture of it.

4           BOARD MEMBER FINDLEY: And that's from the road?

5           MS. ANTISIN: I'm MEAN I'm not an expert, but it's 12  
6 feet to the driveway here, but it's 35 feet.

7           BOARD MEMBER DAWKINS: It's close to the driveway.

8           CHAIRMAN MORDAS: So the road is over here.

9           BOARD MEMBER DAWKINS: The road is here.

10          BOARD MEMBER FINDLEY: Front yard setback is 50 feet.

11          MS. ANTISIN: It's what?

12          BOARD MEMBER FINDLEY: Fifty feet.

13          CHAIRMAN MORDAS: I live on Shawangunk Road. It's a  
14 unique area. There's lots of topographic issues and houses  
15 are put in different directions.

16          I like the way you have the house set up, your yard.

17          MS. ANTISIN: You know, when I bought that property it  
18 was two bedroom, the laminate, you know, curling up. It  
19 didn't have the deck off it. I've invested a lot to  
20 improve the property. You know, I don't think that that  
21 shed is an eyesore, despite its location. It's not a  
22 eyesore to the community.

23          BOARD MEMBER DAWKINS: Is the shed affixed to the pad  
24 or does it just sit on top of the pad?

25          MS. ANTISIN: My son did it.

1                                 - RE: P. ANTISIN -

2             CHAIRMAN MORDAS:     Why is the pad so large?

3             MS. ANTISIN:     Because my son convinced me that if I  
4 was going to pay to have the concrete put in I might as  
5 well do the larger pad.     And then I thought, oh, I can put  
6 lawn chairs on there when we're playing horseshoes or  
7 bocce.

8             CHAIRMAN MORDAS:   All right.     Any further questions?

9             BOARD MEMBER DAWKINS:   You could gain, what, ten feet  
10 by moving the shed to the other side.

11            CHAIRMAN MORDAS:   I don't know.   You know, it comes  
12 down to --

13            BOARD MEMBER DAWKINS:   I'm just saying.

14            CHAIRMAN MORDAS:   I just have a little bit of an issue  
15 of the proximity to the road.   I think this property is a  
16 candidate for relief from 199-13(C)(2).

17            Will you be adverse to planting some pine trees  
18 between the house and the road, like a row?

19            BOARD MEMBER FINDLEY:   Between the shed and the road.

20            CHAIRMAN MORDAS:   The shed and the road?

21            MS. ANTISIN:     Not at all.     Yeah.     But there's --  
22 there's greenery there, but I could put evergreens so that  
23 it would be permanently.

24            CHAIRMAN MORDAS:   When the leaves fall.

25            MS. ANTISIN:     Yes.



1                   - RE: P. ANTISIN -

2           CHAIRMAN MORDAS: Is that a fair compromise?

3           MS. ANTISIN: Absolutely.

4           BOARD MEMBER MORREALE: Matt, there's an evergreen  
5 called Green Giant. It's probably going to be the most  
6 effective and it'll cover it quickly, grow very quickly.

7           MS. ANTISIN: Green Giant.

8           BOARD MEMBER MORREALE: Green Giant.

9           MS. ANTISIN: Thank you.

10          BOARD MEMBER FINDLEY: This kind of brings up my  
11 point. There almost should be two variances because she is  
12 in front of the house but yet she's also violating the  
13 front yard, the required front yard.

14          MR. MOGEL: Front yard setback --

15          MS. PLATT: For a house.

16          MR. MOGEL: For a house.

17          BOARD MEMBER FINDLEY: But it's a front yard. There  
18 should be nothing in it, like a side yard.

19          CHAIRMAN MORDAS: I think technically, it's your side  
20 yard; right?

21          MS. ANTISIN: That is my side yard.

22          BOARD MEMBER FINDLEY: Oh, that's your side yard?

23          MS. ANTISIN: Yes.

24          BOARD MEMBER FINDLEY: That's not the --

25          MS. ANTISIN: No.

1                               - RE: P. ANTISIN -

2           BOARD MEMBER DAWKINS: Well ...

3           MS. ANTISIN: No. My front door, if you take a look  
4 at the pictures there's like a --

5                               (Inaudible due to multiple speakers.)

6           MR. MOGEL: One at a time.

7           MS. ANTISIN: -- when you walk in. The front door is  
8 facing the parking area.

9           BOARD MEMBER FINDLEY: No. I get your house is  
10 oriented maybe not conventionally, but the front yard is  
11 still along the road.

12           BOARD MEMBER MORREALE: Right.

13           BOARD MEMBER FINDLEY: It's not the front of the  
14 house. But the front yard ...

15           BOARD MEMBER MORREALE: Between the structure and the  
16 road.

17           BOARD MEMBER FINDLEY: Right.

18           BOARD MEMBER DAWKINS: Okay.

19           BOARD MEMBER FINDLEY: Because you could still put the  
20 -- I mean I'm not saying it works for you. But you could  
21 still put the shed in the front of the house and still have  
22 an acceptable front yard setback.

23           MS. PLATT: No.

24           MS. ANTISIN: No.

25           MS. PLATT: It's going against an accessory structure

1                                   - RE: P. ANTISIN -

2 being before the street wall of the dwelling.

3           BOARD MEMBER FINDLEY: I agree with that.

4           BOARD MEMBER MORREALE: Correct, it's 50 foot.

5           MS. PLATT: For a house.

6           MR. MOGEL: For a house.

7           MS. PLATT: Fifty feet for a house. If you were to  
8 build a new house --

9           BOARD MEMBER FINDLEY: I'm not sure I interpret it  
10 that way. I would like to --

11          CHAIRMAN MORDAS: Kent, this is a nonconforming lot.

12          BOARD MEMBER FINDLEY: Is it? What's the size?

13          CHAIRMAN MORDAS: It's two acre zoning in Burlingham  
14 Zone, which you are. How many acres do you have?

15          MS. ANTISIN: Actually, 1.1.

16          BOARD MEMBER FINDLEY: So we're a nonconforming lot.

17          MS. ANTISIN: Which means what?

18          CHAIRMAN MORDAS: Kent, I think you have like a marker  
19 on that page. What is it?

20          BOARD MEMBER FINDLEY: Nonconforming lot, it's 199-54,  
21 I think.

22          MS. ANTISIN: I'm grandfathered into that, though.

23          BOARD MEMBER FINDLEY: No, no.

24          MS. ANTISIN: Okay.

25          MS. PLATT: Kent was going to mention that it needs to

1                   - RE: P. ANTISIN -

2 be, front yard is 30 percent of the lot depth is what Kent  
3 is going to bring up.

4           MR. MOGEL: This is for a house.

5           MS. PLATT: For a house, again.

6           MR. MOGEL: Accessory structures are not treated in  
7 the same fashion as a house. That's why you have a side  
8 yard setback of 30 feet but the accessory structures can be  
9 within 10 feet. They have to be at least ten feet.

10 Accessory structures are not treated as the same thing.

11           BOARD MEMBER FINDLEY: So --

12           MR. MOGEL: They're covered by a different set of  
13 rules.

14           BOARD MEMBER FINDLEY: So for argument's sake, she  
15 could put it on the property line. I'm not saying she's  
16 doing that.

17           CHAIRMAN MORDAS: What's the size of the building? Is  
18 it more than 144 square feet?

19           MS. ANTISIN: Ten by ten.

20           MS. PLATT: No.

21           CHAIRMAN MORDAS: Ten by ten. She could put it right  
22 up onto the property line.

23           MS. PLATT: She can't.

24           BOARD MEMBER DAWKINS: She can't.

25           MS. PLATT: She can't. It doesn't need a permit but

1                   - RE: P. ANTISIN -

2 it still needs to meet the setbacks for an accessory  
3 structure. No closer to the street than the street wall of  
4 the dwelling or ten feet --

5           CHAIRMAN MORDAS: Yes, as far as setbacks.

6           MS. PLATT: -- 10 feet off the property line.

7           CHAIRMAN MORDAS: If you legally locate that anywhere  
8 on your property other than the front yard it could be  
9 right up --

10          MS. PLATT: Ten feet from the property line.

11          CHAIRMAN MORDAS: No. It could be right up on the  
12 border.

13          MR. MOGEL: Ten feet.

14          MS. PLATT: The setback still matters. She doesn't  
15 need a permit, but the setback still matters. It's got to  
16 be ten feet from the main structure.

17          CHAIRMAN MORDAS: I had this talk with Mary. You  
18 could put it right up to the border on an unpermitted. If  
19 it needs a permit then it's got to abide by the 10 foot  
20 setback.

21          MS. PLATT: I don't think that's right, but I'm  
22 sorry, that's your call, I guess.

23          CHAIRMAN MORDAS: All right. Because I had this talk  
24 with Mary and we went over this.

25          MR. MOGEL: Under Accessory Structures 199-13, I

1                   - RE: P. ANTISIN -

2     assume is potential setbacks?

3           MS. PLATT: Yes.

4           CHAIRMAN MORDAS: This happens once in a while.

5           MS. PLATT: No accessory buildings permitted by this  
6     chapter shall be placed in any required side yard or  
7     required front yard except as specified hereinafter in this  
8     article.

9           Accessory structures which are not attached to a  
10    principal structure, 199-13(C), such structure may be  
11    erected in accordance with the following restrictions.

12          No accessory structure is located closer than 10 feet  
13    to the side and rear lot lines except for storage buildings  
14    not requiring -- oh, there it is.

15          CHAIRMAN MORDAS: Okay.

16          MS. PLATT: Not requiring a building permit.

17          CHAIRMAN MORDAS: All right. So Steve, you're saying  
18    that the accessory structure requirements override any of  
19    these issues with setbacks here.

20          MR. MOGEL: That's what I would, yes.

21          CHAIRMAN MORDAS: Okay. I'd like to put forth --

22          MS. PLATT: Besides front yard.

23          CHAIRMAN MORDAS: Yes.

24          MR. MOGEL: Street, yes, absolutely. I mean it's  
25    overriding.

1                                 - RE: P. ANTISIN -

2             CHAIRMAN MORDAS: Do I have a motion to close the  
3 public hearing?

4             BOARD MEMBER DAWKINS: So moved.

5             CHAIRMAN MORDAS: Do I have a second?

6             BOARD MEMBER RAMPE: Second.

7             CHAIRMAN MORDAS: All in favor?

8             BOARD MEMBER RAMPE: Aye.

9             BOARD MEMBER DAWKINS: Aye.

10            BOARD MEMBER FINDLEY: Aye.

11            BOARD MEMBER MORREALE: Aye.

12            CHAIRMAN MORDAS: Aye.

13                                 (The motion was approved and carried.)

14            CHAIRMAN MORDAS: In regards to granting Ms. Antisin  
15 relief from 199-13 --

16            MR. MOGEL: Criteria.

17            BOARD MEMBER DAWKINS: Criteria.

18            CHAIRMAN MORDAS: Thank you, Steve.

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

24            In making such determination the Board shall also  
25 consider whether an undesirable change will be produced in

1                               - RE: P. ANTISIN -

2 the character of the neighborhood or a detriment to nearby  
3 properties will be created by the granting of the area  
4 variance.

5           I'll yes.

6           Cathy

7           BOARD MEMBER DAWKINS: I'm going to say yes.

8           CHAIRMAN MORDAS: Georgia.

9           BOARD MEMBER RAMPE: No.

10          CHAIRMAN MORDAS: Matthew.

11          BOARD MEMBER MORREALE: Yes.

12          CHAIRMAN MORDAS: Kent.

13          BOARD MEMBER FINDLEY: No.

14          CHAIRMAN MORDAS: Whether the benefit sought by the  
15 Applicant can be achieved by some method feasible for the  
16 Applicant to pursue other than an area variance.

17          Kent.

18          MEMBER FINDLEY: Yes.

19          CHAIRMAN MORDAS: Matthew.

20          BOARD MEMBER MORREALE: Yes.

21          CHAIRMAN MORDAS: Georgia.

22          BOARD MEMBER RAMPE: Yes.

23          CHAIRMAN MORDAS: Cathy.

24          BOARD MEMBER DAWKINS: Yes.

25          CHAIRMAN MORDAS: I'll say yes.



1                                   - RE: P. ANTISIN -

2           Whether the requested area variance is substantial.

3           Yes.

4           BOARD MEMBER RAMPE: Yes.

5           BOARD MEMBER DAWKINS: Yes.

6           BOARD MEMBER MORREALE: Yes.

7           BOARD MEMBER FINDLEY: Yes.

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

11          I'll say yes.

12          BOARD MEMBER DAWKINS: No.

13          BOARD MEMBER RAMPE: No.

14          CHAIRMAN MORDAS: Matthew.

15          BOARD MEMBER MORREALE: Yes.

16          CHAIRMAN MORDAS: Kent.

17          BOARD MEMBER FINDLEY: No.

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

22          I'll say yes.

23          BOARD MEMBER DAWKINS: Yes.

24          BOARD MEMBER RAMPE: Yes.

25          BOARD MEMBER MORREALE: Yes.

1                                 - RE: P. ANTISIN -

2             BOARD MEMBER FINDLEY: Yes.

3             CHAIRMAN MORDAS: All right. I'm going to propose a  
4 motion for granting Ms. Antisin relief from 199-13(C)(2),  
5 no accessory structure is located closer to the street than  
6 the street wall of the principal structure except in the  
7 case of farm buildings, with the condition that some  
8 ornamental evergreens are planted.

9             BOARD MEMBER DAWKINS: How many?

10            CHAIRMAN MORDAS: I'm looking for coverage, not  
11 numbers.

12            BOARD MEMBER DAWKINS: I'm looking for numbers.  
13 Quantifiability. Three.

14            CHAIRMAN MORDAS: You understand, what was that, the  
15 Green Giant?

16            BOARD MEMBER MORREALE: Yes, the Green Giant.

17            CHAIRMAN MORDAS: How many would she need?

18            BOARD MEMBER MORREALE: I would say four.

19            BOARD MEMBER DAWKINS: Okay, I'll go with four.

20            CHAIRMAN MORDAS: Four conifers of your choice to be  
21 planted between the road and the street wall of your  
22 accessory structure.

23            MS. ANTISIN: When do I have until I can do that?

24            BOARD MEMBER DAWKINS: Tomorrow.

25            CHAIRMAN MORDAS: For pine, do you think spring is a

1 - RE: P. ANTISIN -

2 good time to plant?

3 BOARD MEMBER DAWKINS: No. Winter. This is the  
4 perfect time.

5 MS. ANTISIN: I have no idea.

6 BOARD MEMBER DAWKINS: You want to put them in now.

7 CHAIRMAN MORDAS: I would say six months.

8 All right, Kent, how do you vote on this?

9 BOARD MEMBER FINDLEY: I vote yes.

10 CHAIRMAN MORDAS: Matthew.

11 BOARD MEMBER MORREALE: I vote in favor of the  
12 variance.

13 CHAIRMAN MORDAS: Georgia.

14 BOARD MEMBER RAMPE: I vote in favor of the variance,  
15 as well.

16 CHAIRMAN MORDAS: Cathy.

17 BOARD MEMBER DAWKINS: I'm going to just say that if  
18 the shed were not already in existence I wouldn't approve  
19 it where it is, but I'm going to say yes.

20 CHAIRMAN MORDAS: And I will concur with Cathy's  
21 sentiment and I'll say yes.

22 Go luck.

23 MS. ANTISIN: That's it?

24 CHAIRMAN MORDAS: That's it.

25 MS. ANTISIN: Thank you.

1                   - RE: P. ANTISIN -

2                   (The variance was granted.)

3           BOARD MEMBER Dawkins: Plant the trees now.

4           CHAIRMAN MORDAS: Do I have a motion to close the  
5 meeting?

6           Mr. Leser, do you have anything to say before we close  
7 the meeting?

8           MR. LESER: No.

9           CHAIRMAN MORDAS: Do I have a motion?

10          MR. LESER: Oh, yes, I do.

11          CHAIRMAN MORDAS: Okay.

12          MR. LESER: Cathy is a hundred percent right. You  
13 plant now for the evergreens.

14          CHAIRMAN MORDAS: I don't know these things. That's  
15 why I ask.

16          MR. LESER: I do. I hated that stuff. My father used  
17 to want me to do it. She's a hundred percent correct.

18          BOARD MEMBER FINDLEY: I'll second the motion.

19          CHAIRMAN MORDAS: All in favor?

20          BOARD MEMBER RAMPE: Aye.

21          BOARD MEMBER DAWKINS: Aye.

22          BOARD MEMBER FINDLEY: Aye.

23          BOARD MEMBER MORREALE: Aye.

24          CHAIRMAN MORDAS: Aye.

25                   (The motion was agreed and carried.)

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- RE: P. ANTISIN -  
(Time noted: 9:19 p.m.)  
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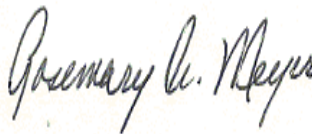
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REPORTER'S CERTIFICATION

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 Patricia Antisin, 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: December 24, 2018

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