TOWN OF MAMAKATING

ZONING BOARD OF APPEALS

MINUTES

June 22, 2023

TOWN HALL

WURTSBORO, NEW YORK

ZONING BOARD MEMBERS :

MATTHEW MORREALE, Chairman

KENT FINDLEY, Board Member

GEORGIA RAMPE, Board Member

DAVID LEWIS, Board Member

GENEVIEVE MULHARE, Board Member

KYRA PLATT, Building Department

STEVEN MOGEL, ESQ., Attorney

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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2	COUNTY OF SULLIVAN : TOWN OF MAMAKATING ZONING BOARD OF APPEALS
3	X Hardscrapers @ Hudson Valley LLC
4	Public Hearing
5	Interpretation and Appeal of Building Inspector's Determination
6	Tax Map Section 12; Block 1; Lot 39 Burlingham Residential Zone
7	X
8	Town Hall
9	Town of Mamakating June 22, 2023 7:00 P.M.
10	ZONING BOARD MEMBERS :
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12	MATTHEW MORREALE, Chairman
13	KENT FINDLEY, Board Member
14	GEORGIA RAMPE, Board Member
	DAVID LEWIS, Board Member
15	GENEVIEVE MULHARE, Board Member
16	KYRA PLATT, Building Department
17	STEVEN MOGEL, ESQ., Attorney
18	
19	
20	Also Present: Maykol Sanchez, Applicant
21	
22	JERIC CORPORATION
23	Court Reporting Services P.O. Box 385
24	Narrowsburg, New York 12764 (845) 252-3515
25	Reported By: Rosemary A. Meyer

HARDSCRAPERS @ HUDSON VALLEY LLC -1 - RE: CHAIRMAN MORREALE: Ladies and gentlemen, the June 2 3 Mamakating ZBA meeting is called to order. 4 Please stand for the Pledge of Allegiance. (The Pledge of Allegiance was recited.) 5 6 CHAIRMAN MORREALE: I'm going to take a quick 7 attendance. 8 Dave Lewis. 9 BOARD MEMBER LEWIS: Here. Genevieve Mulhare. 10 CHAIRMAN MORREALE: BOARD MEMBER MULHARE: 11 Here. 12 CHAIRMAN MORREALE: Kent Findley. 13 BOARD MEMBER FINDLEY: Here. CHAIRMAN MORREALE: Georgia Rampe. 14 BOARD MEMBER RAMPE: Here. 15 CHAIRMAN MORREALE: And Jon Fournier. 16 17 (No verbal response.) 18 CHAIRMAN MORREALE: Kyra, can you hear us okay? 19 MS. PLATT: As long as you're speaking into the 20 microphones, yes. 21 CHAIRMAN MORREALE: All right. Noted. 22 I did not have a chance to review the April minutes. 23 I'm not sure if anyone had the chance in the last 24 hours, 2.4 but I propose that we put off accepting them until the next 25 meeting.

HARDSCRAPERS @ HUDSON VALLEY LLC -1 BOARD MEMBER RAMPE: Okay. 2 CHAIRMAN MORREALE: Well, Kyra, who is before us first? 3 4 MS. PLATT: We have a public hearing for Hardscrapers @ 5 Hudson Valley LLC, care of Maykol Sanchez and Elizabeth Diaz. 6 Interpretation and appeal of Building Inspector's determination that the original preexisting nonconforming 7 residential use was lost due to altering the structure, 8 gutting it without permit. The property is located at 68 9 10 through 70 Walker Valley Road, Tax Map Section 12; Block 1; Lot 39. It's approximately two acres and lies within the 11 12 Burlingham Residential Zone. 13 CHAIRMAN MORREALE: Thank you. 14 Would the Applicant or a representative please approach 15 the podium. (Mr. M. Sanchez and Ms. E. Diaz complied.) 16 17 MS. DIAZ: Good afternoon. MR. SANCHEZ: Good afternoon. 18 19 CHAIRMAN MORREALE: Good evening. Please state your names and briefly give us a rehashing of your application. 20 MR. SANCHEZ: My name is Maykol, M-A-Y-K-O-L, Sanchez. 21 22 Elizabeth Diaz, my wife. 23 We bought the property at Walker Valley. It was gutted inside, it wasn't touched outside, by the previous owner. 24

The violation was issued a year of that date. And we

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- RE: HARDSCRAPERS @ HUDSON VALLEY LLC -1 purchased it and we submitted plans for to rebuild them. 2 inspector had noticed that, had put there that I couldn't use 3 4 the grandfathered property. But in previous meetings with you guys, we've been discussing this back and forth. 5 6 just at my last meeting I didn't know I had to send the 7 letters. So I sent every letter and I have the stuff here. CHAIRMAN MORREALE: 8 Okay. MR. SANCHEZ: And basically, we're here to see if I can 9 remodel the two units. 10 CHAIRMAN MORREALE: Kyra, do we have everything checked 11 off for the public hearing, the mailings and the 12 13 advertisement? MS. PLATT: We did notify the newspaper and they did 14 15 bring in the green slips for their mailers. All of them do 16 match up. 17 CHAIRMAN MORREALE: Great. 18 Before we vote to open the public hearing, are there any 19 questions from the Board? 20 He mentioned they -- when did BOARD MEMBER RAMPE: Yes. 21 Mary Grass contact you about this? 22 MR. SANCHEZ: They didn't. We --23 MS. DIAZ: January.

MR. SANCHEZ: Yes, January.

BOARD MEMBER RAMPE:

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- RE: HARDSCRAPERS @ HUDSON VALLEY LLC -1 CHAIRMAN MORREALE: I wasn't here for your first 2 appearance, but I remember last month, Kent, you brought up 3 4 the two year. BOARD MEMBER FINDLEY: Yes. And I'm pretty sure the 5 6 Town doesn't have any evidence that gets to two years. 7 CHAIRMAN MORREALE: Right. So there's been, as far as 8 we know, no change in their special use. 9 MS. PLATT: The violation was first issued on June 2nd, 10 2022. And then the current property owners received their violation November 21st, 2022. 11 12 BOARD MEMBER FINDLEY: So we don't know. As far as I 13 know, we don't know when the use stopped. I'm sorry. As far as I know, we don't when the use stopped. 14 15 CHAIRMAN MORREALE: So let's ... June 2nd, 2022 is the date. 16 BOARD MEMBER FINDLEY: 17 CHAIRMAN MORREALE: Is the closest we have to a 18 question. 19 BOARD MEMBER FINDLEY: That's my understanding. 20 CHAIRMAN MORREALE: And that's well within two years. BOARD MEMBER RAMPE: I have it in here. Original 21 violation was April 25th, 2022. There was a stop work order. 22 23 CHAIRMAN MORREALE: Okay. 24 BOARD MEMBER FINDLEY: April. 25 CHAIRMAN MORREALE: April '22

- RE: HARDSCRAPERS @ HUDSON VALLEY LLC -1 2. BOARD MEMBER FINDLEY: Either way, it's --CHAIRMAN MORREALE: Okay. 3 4 BOARD MEMBER FINDLEY: -- it's not even close to 5 approaching two years. 6 CHAIRMAN MORREALE: Gotcha. 7 MS. PLATT: I apologize. I didn't flip far enough. 8 Yes, April 25th, 2022 is the first violation. 9 CHAIRMAN MORREALE: Thank you. Any other questions before opening the public hearing? 10 BOARD MEMBER RAMPE: No. 11 12 CHAIRMAN MORREALE: Do I have a motion to open the 13 public hearing? BOARD MEMBER RAMPE: I'll make a motion. 14 CHAIRMAN MORREALE: A second? 15 16 BOARD MEMBER LEWIS: Aye. 17 CHAIRMAN MORREALE: Were we able to open it last month? 18 MS. PLATT: No. 19 BOARD MEMBER FINDLEY: We kind of said we didn't open 20 it, I think. 21 CHAIRMAN MORREALE: Yes, I don't think we met the 22 criteria for opening it. 23 BOARD MEMBER RAMPE: So we're opening it now. 24 CHAIRMAN MORREALE: So do we have a second? 25 BOARD MEMBER LEWIS: I'll second.

HARDSCRAPERS @ HUDSON VALLEY LLC -1 - RE: CHAIRMAN MORREALE: All in favor? 2 BOARD MEMBER RAMPE: Aye. 3 4 BOARD MEMBER FINDLEY: Aye. BOARD MEMBER LEWIS: Aye. 5 6 BOARD MEMBER MULHARE: 7 CHAIRMAN MORREALE: Aye. (The motion was approved and carried.) 8 9 CHAIRMAN MORREALE: Kyra, do we have anyone from the 10 public who would like to speak? MS. PLATT: Nobody on Zoom. It's just the Board and 11 myself. So if anybody in person would like to speak they 12 13 just have to state their name for the stenographer. CHAIRMAN MORREALE: 14 Thank you. 15 We're going to have a member from the public come up and 16 say their peace. 17 Sir, yes, please. Just state your name for the 18 stenographer, please. 19 MR. FISHER: Okay. Can you hear me through my mask? apologize for that. 20 21 CHAIRMAN MORREALE: If you could bring it just a little 22 bit closer, maybe. 23 MR. FISHER: We're the Fishers, Ed and Gail. lived on that property since -- we've live on the neighboring 24 25 property, 74 Walker Valley Road, since 1990, so 33 years.

- RE: HARDSCRAPERS @ HUDSON VALLEY LLC And we've watched people come and go. Generally speaking,
nobody lives in either one of those bungalows for more than

about six months.

We have a lot of questions about what's going to happen there. Our understanding is that the two dwellings use one single septic system, if there is a septic system. We know, from the past, that the house on the other side of us, which was, again, two bungalows that were converted into a single dwelling, had no kind of septic tank. It just kind of ran off into a -- I don't know if you would even call it a leach field. That was corrected, I believe. So we're concerned about that and how it could influence our property.

We're also a little concerned about the survey that was done. One day when I was walking down the road, there were two gentlemen out. They were asking me where my property line was and I said: I'll bring you a plat and you can look at it and at least you can establish what the borderline is between our property and theirs.

Subsequent to that, we've been in the back and I don't know, I can't recall if any survey team with survey equipment ever came out, but they pounded a rebar in the back and painted it pink. And on my calculations, it's a little off so I think that really needs to be officially redone.

There's a problem sometimes with parking. In the

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HARDSCRAPERS @ HUDSON VALLEY LLC wintertime the driveway slopes very steeply and there have been people there who could not get their cars out onto the road to get to work because of the icing and so sometimes they would park in the street or along the shoulder of the road. And there's a dip in the road at that particular point and it's hard enough. When we're pulling out of our driveway, you can't see over that dip because it's just enough to swallow a car up in, and you can pull out and all of a sudden a car is practically on top of you. And with cars parked on the shoulder of the road, it makes that even

Am I leaving anything out? Do you want to say something?

MS. FISHER: Can you hear me?

CHAIRMAN MORREALE: Yes.

MS. FISHER: Okay.

more difficult.

- RE:

CHAIRMAN MORREALE: But speak closely to the microphone

MS. FISHER: Over the 30 year period we've had a lot of things happen that I think the landlord, the previous landlords, have not taken care of. One of the things they would not do was pay for garbage collection. So a lot of the people just used to put their garbage in these big black bags and stuff them underneath the house so that was a problem being right next door to them, having all that garbage there.

- RE: HARDSCRAPERS @ HUDSON VALLEY LLC -

The other problem we've had is that the people there have dogs and a lot of times their dogs would not be on leaches. So a lot of times their dogs would be over in my yard, on my porch barking at me. All right?

Another thing was the landlord, I don't know whether they did it or not, but the people moved out, they would put furniture and anything they wanted to burn in a burn pit in the back yard and I was concerned about the fumes from painted furniture and furniture that has been, you know, veneered and that kind of stuff. But over the years we've had just some problems, mostly probably with the landlord. He wasn't keeping up the property.

I have called the town once or twice concerning the garbage and the burning of the furniture. So we just want to make sure that whoever is there, that the property is taken care of. We've had no problems with the people, but we just want to make sure the neighborhood stays the same, as quiet as it usually is, and that the property is taken care of.

CHAIRMAN MORREALE: Thank you.

I think just for clarification, and I appreciate you expressing your concerns, but our focus this evening is extremely narrow. And while what you've just described sounds, in some cases, awful and concerned, is really not in our purview this evening. And it sounds like you have new

- RE: HARDSCRAPERS @ HUDSON VALLEY LLC -

owners to the property --

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MS. FISHER: Yes.

CHAIRMAN MORREALE: -- and a chance of a fresh start.

And hopefully, for the sake of neighborly conduct, they
listen to you loud and clear and these things will be avoided
in the future. I can only hope.

Thank you for your comments.

Any other questions for these applicants?

(No verbal response.)

CHAIRMAN MORREALE: Another speaker? Chris.

MR. LESER: I am Chris Leser.

The Applicant is here because the interpretation and building, appeal of the building inspector determination that the original preexisting nonconforming residential use was lost due to altering the structure, (gutting without permits). I didn't hear the folks saying how they were going to address this, how would the remedy be, because this, that I know personally, this has been an issue for many, many years. And one of the owners, way back in the day, the poor guy died of cancer, so those two dwellings that they're talking about got into the hands, was willed to the children and so for a few years that's just been neglected. So once again, I'd like to hear what. It sounds to me that the way it's worded here, that if the Applicants had come before the,

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first come before the Building Department and tried to find out what's the best way to approach this, it sounds to me like they didn't do that. So here, I'm thinking that's what

HARDSCRAPERS @ HUDSON VALLEY LLC -

proposals are. Perhaps to me, the Zoning Board would like to

they're here for. So once again, I'd like to hear what their

Thank you.

hear from them.

CHAIRMAN MORREALE: Thank you.

Unless I'm mistaken, the interpretation would not have an effect on them, potentially wiping a slate clean on the potential violations they've incurred.

MR. MOGEL: Whatever violations are of record would still need to be addressed. I mean I don't know. I mean the interpretation, the appeal is with regard to a nonconforming preexisting use. If there were any violations that were issued for construction or demolition without a permit, that wouldn't necessarily be affected in any way by this interpretation so that could be pursued by the Town if the Town elected to do so.

CHAIRMAN MORREALE: Sure.

MS. PLATT: If I may.

CHAIRMAN MORREALE: Please.

MS. PLATT: The Applicant applied for a permit to continue the two uses. They wanted to rebuild or renovate

HARDSCRAPERS @ HUDSON VALLEY LLC -- RE: the two houses. They received a permit denial. Mary's denial was based off of termination of use for the permit. So they did apply for a permit to renovate the structures so that they could both be used as single-family dwellings again. MR. MOGEL: Okay. Thanks, Kyra. CHAIRMAN MORREALE: And it sounds like, from the public comment, that it's been in use. MR. MOGEL: Yes, it does sound like that. BOARD MEMBER FINDLEY: Yes. CHAIRMAN MORREALE: So I think that's a confirmation that we didn't have. BOARD MEMBER FINDLEY: BOARD MEMBER RAMPE: When was it purchased? MS. DIAZ: July 2022. BOARD MEMBER RAMPE: Oh, okay. BOARD MEMBER FINDLEY: So the Town has offered no evidence that the use has stopped --CHAIRMAN MORREALE: Right. BOARD MEMBER FINDLEY: -- prior to the two years. CHAIRMAN MORREALE: Correct. At least that's -- I haven't seen anything and we have --BOARD MEMBER FINDLEY: Some confirmation it was being

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1 - RE: HARDSCRAPERS @ HUDSON VALLEY LLC -2. used. CHAIRMAN MORREALE: Yes, absolutely. 3 4 BOARD MEMBER RAMPE: What will happen? There is no denotation, anything on here denoting septic. Do they have 5 6 to go through that with Mary? 7 CHAIRMAN MORREALE: Well, I'm not exactly sure, but if 8 the permits would trigger, let's say more bedrooms, then I think the septic evaluation would have to be made. 9 10 BOARD MEMBER RAMPE: Right. Right, but --11 BOARD MEMBER FINDLEY: BOARD MEMBER RAMPE: But they're so small already --12 13 BOARD MEMBER FINDLEY: Yes. BOARD MEMBER RAMPE: -- I don't think there are going to 14 15 be adding bedrooms. 16 BOARD MEMBER FINDLEY: I don't think they're actually 17 allowed to. 18 BOARD MEMBER RAMPE: Right. 19 BOARD MEMBER FINDLEY: The way the nonconforming use reads, you can't add bedrooms. You can alter to make for 20 better living, I'm going by memory now, but you can't 21 22 increase sleeping quarters, number of bedrooms. 23 BOARD MEMBER RAMPE: Right. So what they were saying 24 about the septic, you want to be sure that the septic --

I agree --

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BOARD MEMBER FINDLEY:

- RE: HARDSCRAPERS @ HUDSON VALLEY LLC -1 BOARD MEMBER RAMPE: Who's going to do that, though? 2 BOARD MEMBER FINDLEY: The Building Department, and 3 4 that's not really in our purview at this time. 5 CHAIRMAN MORREALE: Yes, we're an not investigating 6 body. 7 BOARD MEMBER RAMPE: Well, I thought that they only look 8 at when you're adding a bedroom. 9 CHAIRMAN MORREALE: They would. 10 BOARD MEMBER FINDLEY: No. I think if you go to the nonconforming, that's actually part of the -- I'll just go to 11 it so we're --12 13 MR. MOGEL: It's 199-51(A), nonconforming uses. Actually, it wouldn't be A. B. 14 15 BOARD MEMBER RAMPE: Kyra, were you going to chime in? 16 MS. PLATT: Yes. So part of their permit process, they 17 would need to prove that the septic capacity is sufficient 18 for both structures. Whether it's one septic or two, I'm not 19 sure. 20 BOARD MEMBER RAMPE: Okay. MS. PLATT: And they would also have to provide a water 21 22 test. 23 BOARD MEMBER RAMPE: Okay. 24 CHAIRMAN MORREALE: Thanks, Kyra.

MR. MOGEL: And it also specifies: No structural

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- RE: HARDSCRAPERS @ HUDSON VALLEY LLC -1 alteration should be made that will increase the number of 2 3 bedrooms or dwelling units. 4 BOARD MEMBER RAMPE: Right. BOARD MEMBER FINDLEY: 5 Right. 6 CHAIRMAN MORREALE: Any other questions? 7 BOARD MEMBER RAMPE: Not from me. CHAIRMAN MORREALE: Any other speakers from the public? 8 9 (No verbal response.) CHAIRMAN MORREALE: Kyra, anybody on Zoom or anything? 10 MS. PLATT: I did reach out on Zoom but nobody 11 12 responded. 13 CHAIRMAN MORREALE: Okay. BOARD MEMBER FINDLEY: And I think 199-54, it goes on to 14 15 G where they have to demonstrate compliance to septic and potable water, I believe. 16 17 BOARD MEMBER RAMPE: Okay. 18 CHAIRMAN MORREALE: Do I have a motion to close the 19 public hearing? 20 BOARD MEMBER RAMPE: Yes, I'll make the motion. 21 CHAIRMAN MORREALE: I'll second. All in favor? 22 23 BOARD MEMBER RAMPE: Aye. 24 BOARD MEMBER FINDLEY: Aye. 25 BOARD MEMBER LEWIS: Aye.

- RE: HARDSCRAPERS @ HUDSON VALLEY LLC -1 2. BOARD MEMBER MULHARE: Aye. CHAIRMAN MORREALE: Aye. 3 4 (The motion was approved and carried.) CHAIRMAN MORREALE: Okay. I believe it's a straight up 5 down vote. There's no criteria --6 7 MR. MOGEL: That's correct. CHAIRMAN MORREALE: -- for the interpretation. 8 9 A vote of yes would be to uphold the Building 10 Inspector's interpretation. No would be interpret the opposite. 11 12 BOARD MEMBER FINDLEY: Overrule. 13 CHAIRMAN MORREALE: Overrule. MR. MOGEL: To overrule it, yes. 14 CHAIRMAN MORREALE: So --15 MR. MOGEL: Which, for clarification, a no vote would 16 17 grant the Applicants the relief that they're seeking. 18 CHAIRMAN MORREALE: Thank you. 19 BOARD MEMBER FINDLEY: It's tricky. 20 CHAIRMAN MORREALE: I try to make things complicated. 21 Two noes would be a yes. 22 All right. So yes to uphold the violation, no to grant relief. 23 2.4 Dave, how do you vote? 25 BOARD MEMBER LEWIS: I vote no.

1	- RE: HARDSCRAPERS @ HUDSON VALLEY LLC -
2	CHAIRMAN MORREALE: Kent, how do you vote?
3	BOARD MEMBER FINDLEY: I vote no.
4	CHAIRMAN MORREALE: I vote no.
5	Georgia, how do you vote?
6	BOARD MEMBER RAMPE: No.
7	CHAIRMAN MORREALE: And Genevieve.
8	BOARD MEMBER MULHARE: No.
9	CHAIRMAN MORREALE: The interpretation has been
10	overruled in your favor.
11	(The Building Inspector's determination was
12	overruled.)
13	BOARD MEMBER FINDLEY: And you have to go through the
14	building permits and blah, blah, blah.
15	CHAIRMAN MORREALE: Yes.
16	MR. SANCHEZ: We submitted plans already so we'll sit
17	down with Mary.
18	CHAIRMAN MORREALE: Excellent.
19	(Time noted: 7:22 p.m.)
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Date Transcribed: July 22, 2023

REPORTER'S CERTIFICATION

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

That the foregoing transcript is an accurate record he the proceedings the matter of Hardscapers @ Hudson Valley 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 he the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

ROSEMARY A. MEYER

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2	COUNTY OF SULLIVAN : TOWN OF MAMAKATING ZONING BOARD OF APPEALS
3	X Ira & Helene Glatt
4	Public Hearing
5	Interpretation and Appeal of Building Inspector's Determination
6	Tax Map Section 49; Block 1; Lot 22.3. Ridge and Valley Protection Zone
7	X
8	Town Hall
9	Town of Mamakating June 22, 2023 7:22 P.M.
LO	ZONING BOARD MEMBERS :
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19	
20	Also Present: Martin Miller, Esq. On Behalf of Applicant
21	on benair of hppireane
22	JERIC CORPORATION
23	Court Reporting Services P.O. Box 385
24	Narrowsburg, New York 12764 (845) 252-3515
25	
	Reported By: Rosemary A. Meyer

CHAIRMAN MORREALE: Kyra, who is before us next?

MS. PLATT: The next is a public hearing for Ira and Helene Glatt, interpretation and appeal of Building Inspector determination in regards to the retail use of the property being considered abandoned. The property is located at 148 South Road, Tax Map Section 49; Block 1; Lot 22.3. It's approximately 2.20 acres and lies within the Ridge and Valley Protection Zone.

CHAIRMAN MORREALE: Thank you.

Mr. Miller.

MR. MILLER: Thank you.

Good evening. I'm going to try and make this as short and direct as I can and then I'll sort of perhaps then leave it for questions.

The first thing that I want to say, which is relevant but not relevant to a certain extent, is that the historical record on this property refers to a prior use by a company called Empire Forklift, Inc. I can represent to this board that I have been the attorney for Empire Forklift literally since about a month after they were formed and the last that I dealt with them as a client was two o'clock this afternoon. I don't believe that they were ever the occupant or entity at this location. I think it was another company that was in the lift truck business. I don't think that IS relevant, but

to the extent that the record reflects that, I think it ought to be corrected. I can confirm that. I didn't even think to do that because quite frankly, I've done all their legal work for all these years and this is my first year being affiliated with this property.

Having said that, we all know this property as being a commercial property in use predating zoning. After, there came a time that zoning and various uses came into effect, a question arose and there was an issue raised before the Planning Board to obtain permission to use this property for a continued commercial use, which was wholesale and retail sales. The Planning Board granted a site plan approval, and that's all in the record before you, and the facility was used for that purpose continuously.

In 2013 the question, again, rose about this property and its continued use in that regard because there was a prospective purchaser and in fact, a purchaser. There's a letter in your packet from the Chairman of the Planning Board which addresses that question, basically saying: Leave me alone. It's approved. Go away. There's no need to bother us. The Glatts didn't bother anybody and didn't do anything.

There came a time this past year when they sought to part with the ownership with a new owner who was going to continue the use, at which point a standard request was made

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of the Building Department for what we call a violation CO search. For anyone who's been involved in real estate, it's fairly routine. The response from the Building Department gratuitously entered, at the end, that the use had been discontinued and there was a denial, and that the Applicant had failed to follow up or file anything with the Building Department that they were there. Well, there's nothing in the public record or any of the approvals which reflects an obligation for someone to say: We're here. So I called up the Building Department and I met with Mary because she said she advanced that the use had been discontinued. So I sat down with her and I asked her to open her file, and she did And I said: Do you have anything in your file which reflects that information? Any notices, any notations, any inspections, any reports, anything? And the answer and the response to that was no. She flipped page by page by page. So there is nothing in the Town's records which affirmatively gives a basis for the conclusion which was reached by the Building Department so that conclusion is without basis.

When we looked at the information that's been attached, the question is has this property been used. We provided both the affidavit of the Glatts. And not that I -- I point this out only because Mr. Mogel is here, but it's well beyond his time otherwise. One of the occupants who engaged in

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wholesale and retail use at that location was the Glatts' son. And in fact, Mr. Mogel billed him at that address during the period of the Glatts' ownership. continues to this time, and they're looking, at this juncture, to have the Board have that observation by the Building Department that it's been discontinued withdrawn. There is no evidence that suggests it was. And the question that was posed to me was: Well, you never filed anything, the Applicant, with the Building Department that you were there and doing these things. And I pose to you if you have a store on Sullivan Street and you're selling widgets in that store and there comes a time when a tenant vacates it and somebody else comes in to sell whatchamacallits, is there an obligation to tell the Building Department that there's been a change in occupancy at that location? The answer is there isn't. And so a change of ownership or a change in who the occupant is, if the owner isn't the occupant, is not a requirement of the code and there's no form for that and there was no requirement, if you look at the approvals that were granted, to do that. The approval was to make use of this property for permitted purposes, as approved by the Planning Board. So all we're asking for is some confirmation by this board that the determination by the code enforcement, in this instance, was unfortunately incorrect.

I don't know if there are any questions. I can have the Glatts come up and testify if the Board would find that persuasive, but I think the affidavit addresses it and there's nothing that would be significantly more probative, unless you have a question in terms of who was there and what they were doing, and we'd be more than happy to respond to that. But I would represent to you that it's been in use and it's been in use since the acquisition of the property and there's never been any violations or notices to the contrary by the Town.

MR. MOGEL: I'd just like to make a couple of comments.

The first is I don't believe you asked Kyra if the public hearing was properly noticed and if the return receipts were received by the Town. It does so happen that Mr. Miller approached me before and indicated that he had only received the addresses to submit notices last Friday and that they did, in fact, send out the return receipts that same day. I just wanted to point out that 199-58(A) provides that the neighboring property owners have to be given notice, five days notice. I believe that under those circumstances, that's an adequate notice. So that's the first item.

The second is that I participated by Zoom at the last meeting, and there were some questions as to whether, given that this is an interpretation, that there would be any

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necessity for a public hearing. I believe Kent explained that it has always been our practice to have a public hearing before taking any action. For the record, I'd like the record to reflect that Town Law 267-A, Subsection 7 states The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of the hearing. So any matter, the statute requires that any decision by the ZBA practice be predicated upon a public hearing. And New York State Department of State, in the James Coon Local Government Technical Series on Zoning Board of Appeals also specifics that all three statutes referring to town, village and city require a hearing before a Board of Appeals may grant a variance or rule on appeal or decide any matter referred to it under any ordinance or local law. So that's just for clarification here. Obviously, we're having it so it's moot with regard to this individual application.

I also wanted to remind the Board when this applicant first came before the Board I indicated that I had been retained previously. I previously represented Jonathan Glatt, who is Ira Glatt's son, and had some periphery involvement with Mr. Glatt himself. I represented Jonathan Glatt on a number of different items. I am somewhat distressed to see copies of my invoices that were attached

because Jonathan Glatt had contacted me recently and asked for an old invoice, and I would have appreciated, in the interest of full disclosure, if he had indicated that he was going to then take those invoices and present them to the Zoning Board of Appeals without notifying me. I do find that distressing.

I also received, on June 19th, from Mr. Glatt, Jonathan Glatt, an e-mail with the subject line: They are messing with us conspiracy style at the town and I really don't appreciate it, especially Thursday. Again, this is in the interest of full disclosure. I don't think that it has any particular relevance to the application that's before this board. I don't feel that I'm incapable, that I need to recuse myself and that alternate counsel needs to take my place, but I do feel that it's important that the Board understand that there was this, what I regard as an unwise communication to me as prior counsel.

So that being said, I will give it back to the Board.

CHAIRMAN MORREALE: Thanks for the confirmation on the hearing.

BOARD MEMBER RAMPE: And what about the mailings then, if they were only mailed out on Friday?

MR. MOGEL: Well, it specifies five days, so it was in excess of five days.

BOARD MEMBER RAMPE: Okay.

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MR. MOGEL: I mean if --

BOARD MEMBER FINDLEY: I mean we could elect not to have a vote tonight and push it.

MR. MOGEL: You could do that. Or you could leave the record open for a period of time if you feel, for any reason, that it's insufficient and that perhaps the neighbors would like to participate.

BOARD MEMBER RAMPE: Well, have we received anything back from the mailings?

MR. MOGEL: There haven't been any return receipts received, but Mr. Miller provided tracking for each of the mailings that indicates they were all delivered.

MS. PLATT: I was (inaudible) by a neighbor. They did state that they received the letter and they asked for a copy of the application via e-mail yesterday.

MR. MOGEL: Okay. Thank you.

MR. MILLER: I'm going just correct and I don't think -I think one was still waiting to be picked up at the post
office. We checked like three o'clock in the afternoon. We
wanted to give the tracking the longest possible time to get
the most current information to you. You know, the post
office scans it so we presume that it would be almost
instantaneously in the system as opposed to doing it this

morning. It appears that I think all but one was actually redeemed, if you will. I could be mistaken.

MR. MOGEL: And I think the Board should take notice that the Town provided this information on Friday and it was mailed the same day. Nonetheless --

BOARD MEMBER RAMPE: But why is that? Why was the information provided so late?

MR. MOGEL: You would have to ask the Town that.

MS. PLATT: I was unable to get it to them any sooner. That's why they didn't receive it until Friday.

BOARD MEMBER RAMPE: Can you repeat that?

BOARD MEMBER FINDLEY: I did not hear that.

MR. MOGEL: She said that she did not -- was able to get that information and she wasn't able to provide it to the Applicant until Friday.

BOARD MEMBER FINDLEY: All right. Go ahead.

MR. MILLER: This is by way in the nature of an apology, but not so because one, I want to tell you that I don't know Jonathan Glatt and I never met him or had any communications with him. The bill was provided to me and I provided it not to put Mr. Mogel on the spot, but for the purposes exclusively, it could have been anybody's bill, but it was for purposes of demonstrating a use at the site during the period of time as opposed to the allegation that it had been

IRA & HELENE GLATT -1 - RE: abandoned, and exclusively for that purpose. 2 MR. MOGEL: That's noted. 3 4 MR. MILLER: And that was --MR. MOGEL: I understand that that's the purpose behind 5 6 It doesn't make it any less distressing. 7 MR. MILLER: Once again, that's the only thing that was given to me so I utilized it. And I mentioned that at the 8 beginning. It was not intended to do anything. And I 9 mentioned it to Mr. Mogel earlier on. 10 BOARD MEMBER FINDLEY: And I would just like to say 11 according to his confirmation, that Empire Forklift is not 12 13 involved, I will not recuse myself. If Empire Forklift was somehow in there I would. 14 15 CHAIRMAN MORREALE: Okav. 16 BOARD MEMBER RAMPE: Okay. 17 MR. MOGEL: Were you employed by Empire Forklift? BOARD MEMBER FINDLEY: No. We do business together 18 19 regularly and like I said, if they were involved, which 20 they're not --21 MR. MOGEL: Yes. 22 MR. MILLER: They were never at this site. 23 historically, they were at a site on, I'm going to call it the service road to 17, when they started in the Town of 2.4

Crawford.

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IRA & HELENE GLATT -1 - RE: BOARD MEMBER FINDLEY: It's fine. 2 MR. MILLER: And then they bought the property in the 3 town and --4 BOARD MEMBER FINDLEY: Crawford. 5 6 MR. MILLER: -- they've been there continuously. 7 BOARD MEMBER FINDLEY: Yes. MR. MILLER: As well as in other locations outside of 8 the area. 9 10 BOARD MEMBER FINDLEY: But they --MR. MILLER: Never here in Mamakating, to the best of my 11 knowledge, and I'm pretty good about that in terms of I've 12 13 never been contacted by them. BOARD MEMBER FINDLEY: And even if they did own the 14 15 property at one time, they're really not involved here. 16 MR. MILLER: Right. 17 BOARD MEMBER FINDLEY: But either way, I would have 18 recused myself. 19 MR. MILLER: I knew that was a question and you had mentioned it so I wanted you to be aware of that. I did some 20 21 little checking today. When I spoke to Junior I didn't ask 22 him. I, quite frankly, forgot. 23 CHAIRMAN MORREALE: For the sake of consistency, I'm 2.4 going to ask Kyra for the confirmation that the advertising

and the mailings were done. But the subject of adequate

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notice for the public I think is something that we should consider.

Kyra, were the mailers and the advertising done?

MS. PLATT: The newspaper was notified and return receipts, the slips that they had done the mailers were received and they do all match up with everyone they were supposed to notify.

CHAIRMAN MORREALE: Thanks. And we have, I guess tracking and at least confirmation from one resident that contacted the Town.

BOARD MEMBER FINDLEY: Is the sale currently pending?

MR. MILLER: There has been, yes, and there is now.

CHAIRMAN MORREALE: Okay. So it would be most likely a great burden to the Applicant if we were to extend it and possibly even risk their sale.

They've met the state required --

MR. MOGEL: It's actually the Town's own code.

CHAIRMAN MORREALE: Okay.

MR. MOGEL: So it requires that due notice be given to the individuals within the vicinity, within 500 feet, the owners of property, not less than five days prior.

There is no definition, there's no indication for additional dates for mailing or et cetera. It would be my opinion that just based on the plain language of the code,

IRA & HELENE GLATT -1 - RE: that that would constitute adequate notice. 2 3 CHAIRMAN MORREALE: I think if we were to entertain 4 extending to next month it would be a burden to the client 5 who did nothing to create the situation. I don't know how 6 anybody else feels about that. 7 BOARD MEMBER FINDLEY: I'm fine with that. I'm just 8 saying that was an option we had. 9 CHAIRMAN MORREALE: Yes, correct. Agreed. MR. MOGEL: And one that we've historically used. 10 CHAIRMAN MORREALE: Yes. 11 12 BOARD MEMBER FINDLEY: Yes. 13 CHAIRMAN MORREALE: For sure. Unless there's any questions from the Board --14 15 BOARD MEMBER FINDLEY: I'll just clarify just so we're 16 clear. The late mailings was not the Applicant's fault. 17 MR. MOGEL: Correct. 18 CHAIRMAN MORREALE: Correct. Absolutely. 19 Do I have a motion to open the public hearing? BOARD MEMBER FINDLEY: I'll make the motion. 20 21 CHAIRMAN MORREALE: Do I have a second? 22 BOARD MEMBER LEWIS: I'll second it. 23 CHAIRMAN MORREALE: All in favor? 24 BOARD MEMBER RAMPE: Aye. 25 BOARD MEMBER FINDLEY:

IRA & HELENE GLATT -1 - RE: BOARD MEMBER LEWIS: Aye. 2 BOARD MEMBER MULHARE: 3 Aye. 4 CHAIRMAN MORREALE: Aye. (The motion was approved and carried.) 5 6 CHAIRMAN MORREALE Kyra, do we have anyone from the 7 public who would like to speak? 8 MS. PLATT: I've just sent a notification on Zoom. soon as they respond, or if they do not respond I will let 9 10 you know. But if you would like to see if anybody in the public would like to comment first, they just need to state 11 12 their name for the stenographer. 13 CHAIRMAN MORREALE: I think I got that. I think we're giving time for the Zoom folks to respond --14 BOARD MEMBER FINDLEY: 15 16 CHAIRMAN MORREALE: -- to the --17 MR. MOGEL: Right. And if there's anybody in the ... 18 CHAIRMAN MORREALE: Yes. 19 BOARD MEMBER RAMPE: It's very unclear. 20 CHAIRMAN MORREALE: Is there anyone here tonight that 21 would like to speak? 22 Chris. 23 I don't have really much to say other than I MR. LESER: 24 really appreciate your attorney bringing this matter forward with this John Glatt. That is unbelievable. 25

IRA & HELENE GLATT -1 - RE: 2 doesn't make any kind of sense at all. That -- I'll shorten it up. 3 I just congratulate -- congratulate, probably wrong 4 choice of words. I think that's a tremendous thing to do, to 5 6 bring that relationship privately to the public. That should 7 never have happened. And he did it very eloquently and I can 8 commend him for doing that. 9 MR. MOGEL: Thank you, Mr. Leser. 10 MR. LESER: That's basically it. Thank you. CHAIRMAN MORREALE: Anyone else from the public? 11 MR. MOGEL: You've got to go to the microphone. Sorry. 12 13 CHAIRMAN MORREALE: Please state your name, sir, for the 14 stenographer. 15 MR. FRONCZEK: My name is Mark Fronczek. 16 Maybe I misunderstood. Is this regarding the issue that 17 was last or -- because I have a couple questions regarding a 18 couple of issues. 19 CHAIRMAN MORREALE: It's regarding to the Applicant that Mr. Miller was just describing. 20 The property on, I think South Road. 21 MR. FRONCZEK: BOARD MEMBER RAMPE: Yes. 22 23 MR. FRONCZEK: Okay. I have another question regarding another question in general. I guess will that be later? 24

MR. MOGEL: Do you have a question about this

IRA & HELENE GLATT -1 - RE: 2 application or you have a general question about zoning? MR. FRONCZEK: Well, it's kind of a general question, 3 4 but also kind of involved the last case and then probably another future case that come before you down the road. 5 6 MR. MOGEL: The public hearing is closed on the prior 7 application. If it doesn't apply to this --MR. FRONCZEK: Well, yeah, it's just a question. 8 not. --9 10 MR. MOGEL: Perhaps you can speak to me after. want to wait, I'd be happy to talk to you about it as long as 11 12 it's not directly pertaining to any application that's going 13 to be -- as long as it's a general question. MR. FRONCZEK: It's kind of a general question, but it 14 15 pertains to several things that have came up before you guys. 16 It's in regards to this nonconforming use stuff. 17 STENOGRAPHER: This is going to be all in this project. 18 CHAIRMAN MORREALE: Right. Sir, does your question 19 specifically address this applicant? 20 MR. FRONCZEK: Not specific, no. Then I would take Mr. Mogel --21 CHAIRMAN MORREALE: 22 MR. FRONCZEK: Okay. I'll pick it up later. CHAIRMAN MORREALE: -- Steven Mogel's advice. Speak to 23 him after the meeting. 24 25 Kyra, has anyone responded on Zoom?

- RE: IRA & HELENE GLATT -

MS. PLATT: They have not.

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CHAIRMAN MORREALE: Okay. Thanks.

I think we've given them --

BOARD MEMBER FINDLEY: I would just ask Kyra if there's been any evidence put forth by the Town.

CHAIRMAN MORREALE: Kyra, do you have any information to share regarding the interpretation of the Building Inspector?

MS. PLATT: We sent a letter in February of 2023 to the property owner, Mr. Glatt, just reiterating that although they had appeared before the Planning Board in 2011, at the conclusion of the meeting the Planning Board was in agreement that they could make a determination based upon the attorney's conclusion of qualifying this is the same use, at which time they were directed to the Building Department to update their special use permit with their information. No documentation was provided to us at that time.

CHAIRMAN MORREALE: And any information that the use was discontinued for more than two years?

MS. PLATT: No information was provided from 2011 until such time the municipal search went out and the property owner brought in information, an affidavit, letters and things like that, but not from 2011 until when the municipal search went out which was October 12th of 2022.

CHAIRMAN MORREALE: I'm just going to reread that

- RE: IRA & HELENE GLATT -

letter.

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MR. MILLER: We provided that letter as part of the filing.

CHAIRMAN MORREALE: Yes, I'm looking at it.

MR. MILLER: If I could address that for a moment.

CHAIRMAN MORREALE: Please.

If you look at the information provided, MR. MILLER: which are the records of the Planning Board and the comments, there's nothing in there which reflects the conclusion contained in the February 21st letter, nor in the letter that we'll call the CO response letter that was generated in the fall of the year prior. It is a conclusion that it is made without any evidentiary basis. I asked for that evidentiary information when I met with the Building Department, and there isn't any. So I can only tell you that there's nothing -- I certainly wasn't involved back then. I can't speak and say definitively I was there and this is what happened, I can only tell you that the record doesn't reflect that conclusion and the files of the Building Department don't contain anything which also would reflect that conclusion. perhaps it was something that the code enforcement officer may have heard in passing way back when, but there's nothing that documents that and it's not something that the Applicant had an obligation to do.

- RE: IRA & HELENE GLATT -

MR. MOGEL: And the Board should take note that there is a sworn affidavit that's attached which states that the use never discontinued. And my prior comments not withstanding, I note that the e-mail from a former assistant of mine to Mr. Glatt, to Jonathan Glatt, and then back, Jonathan Glatt indicates in this September 22nd, 2016 e-mail to send the invoices to 148 South Road. The Board should take note of that.

CHAIRMAN MORREALE: I think given the weight of the affidavit and the lack of the arguments provided by the Town that the use was discontinued, at least my opinion, that --

BOARD MEMBER RAMPE: That the use was --

CHAIRMAN MORREALE: That use was continued.

BOARD MEMBER RAMPE: Oh, continued. I thought you said was discontinued.

CHAIRMAN MORREALE: No. Well, lack of evidence from the Town showing --

BOARD MEMBER RAMPE: Right.

CHAIRMAN MORREALE: -- showing that it was discontinued for two years.

BOARD MEMBER RAMPE: Yes.

CHAIRMAN MORREALE: And a sworn affidavit, as well as the billing that was done to the building itself.

BOARD MEMBER RAMPE: Yes.

IRA & HELENE GLATT -1 - RE: 2 CHAIRMAN MORREALE: Close the public hearing. Do I have 3 motion to close the public hearing? BOARD MEMBER FINDLEY: I'll make the motion. 4 CHAIRMAN MORREALE: I'll second that motion. 5 All in favor? 6 7 BOARD MEMBER RAMPE: Aye. BOARD MEMBER FINDLEY: Aye. 8 9 BOARD MEMBER LEWIS: Aye. 10 BOARD MEMBER MULHARE: 11 CHAIRMAN MORREALE: Aye. 12 (The motion was approved and carried.) 13 CHAIRMAN MORREALE: Well, to keep it complicated, to --BOARD MEMBER FINDLEY: This is just interpretation 14 15 again, so there's only one vote. 16 CHAIRMAN MORREALE: Up and down. 17 MR. MOGEL: You're correct 18 CHAIRMAN MORREALE: Yes. 19 MR. MOGEL: You can phrase it precisely the way you did 20 the prior one. 21 CHAIRMAN MORREALE: Just do it the same way I did the 22 prior. 23 MR. MOGEL: Yes. 24 CHAIRMAN MORREALE: A vote for yes would uphold the 25 interpretation of the Building Department and a vote of no

1	- RE: IRA & HELENE GLATT -
2	would overrule and grant relief to the Applicant.
3	Okay. Kent, how do you vote?
4	BOARD MEMBER FINDLEY: No.
5	CHAIRMAN MORREALE: Georgia, how do you vote?
6	BOARD MEMBER RAMPE: No.
7	CHAIRMAN MORREALE: Dave, how do you vote?
8	BOARD MEMBER LEWIS: No.
9	CHAIRMAN MORREALE: Genevieve.
10	BOARD MEMBER MULHARE: No.
11	CHAIRMAN MORREALE: I vote no.
12	(The Building Inspector's determination was
13	overruled.)
14	MR. MILLER: I thank the Board for their consideration
15	in this matter.
16	And to the extent, I apologize to Steve, but it was the
17	evidence and that's all that was provided.
18	MR. MOGEL: That's fine.
19	MR. MILLER: So I thank you all for your participation
20	and civic duty this evening. Have a great night. And if all
21	goes well, I won't see you again this summer. Thank you.
22	CHAIRMAN MORREALE: Thank you.
23	Time noted: 7:50 p.m.)
24	* * * *

REPORTER'S CERTIFICATION

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

That the foregoing transcript is an accurate record he the proceedings the matter of Ira & Helene Glatt, 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 he the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

Jaumary a. Meyer

ROSEMARY A. MEYER

Date Transcribed: July 22, 2023

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2	COUNTY OF SULLIVAN : TOWN OF MAMAKATING ZONING BOARD OF APPEALS
3	X
4	Board Business
5	X
6	Town Hall
7	Town of Mamakating
8	June 22, 2023 7:50 P.M.
9	ZONING BOARD MEMBERS :
10	MATTHEW MORREALE, Chairman
11	KENT FINDLEY, Board Member
12	GEORGIA RAMPE, Board Member
13	DAVID LEWIS, Board Member
14	GENEVIEVE MULHARE, Board Member
15	KYRA PLATT, Building Department
16	STEVEN MOGEL, ESQ., Attorney
17	
18	
19	
20	
21	TUDIO GODDODIMION
22	JERIC CORPORATION Court Reporting Services
23	P.O. Box 385 Narrowsburg, New York 12764
24	(845) 252-3515
25	Reported By: Rosemary A. Meyer

- RE: BOARD BUSINESS -1 CHAIRMAN MORREALE: A vote to adjourn. 2 BOARD MEMBER RAMPE: Second. 3 4 BOARD MEMBER FINDLEY: There's nothing else we need to discuss? 5 CHAIRMAN MORREALE: Do you have anything in mind? 6 7 BOARD MEMBER FINDLEY: I had heard there was a lawsuit 8 brought. I didn't know if there was anything ... CHAIRMAN MORREALE: This would be an executive session. 9 10 MR. MOGEL: It would be except I have no knowledge of it other than Mr. Barshov had contacted me throughout the 11 process of asking when it should be by. Not when it should 12 13 be filed, but was the decision filed, et cetera, et cetera, asking if I could accept service, which I said I could not 14 15 and hadn't been previously. But no one from the Town has 16 contacted me to represent the Board so I have to assume that 17 town counsel is handling it. 18 BOARD MEMBER FINDLEY: All right. MR. MOGEL: That would be my assumption. 19 20 BOARD MEMBER FINDLEY: I just wanted, you know ... CHAIRMAN MORREALE: I heard from a town board member 21 22 that we were being sued. But again, I haven't seen anything. 23 BOARD MEMBER FINDLEY: Fine, perfect. We don't need to discuss it. 2.4

Great.

CHAIRMAN MORREALE: All right.

1	- RE: BOARD BUSINESS -
2	So all in favor?
3	BOARD MEMBER RAMPE: Aye.
4	BOARD MEMBER FINDLEY: Aye.
5	BOARD MEMBER LEWIS: Aye.
6	BOARD MEMBER MULHARE: Aye.
7	CHAIRMAN MORREALE: Aye.
8	(The motion was approved and carried.)
9	(Time noted: 7:51 p.m.)
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REPORTER'S CERTIFICATION

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

That the foregoing transcript is an accurate record he the proceedings the matter of Board Business, 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 he the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

Gaumary a. Meyer

ROSEMARY A. MEYER

Date Transcribed: July 22, 2023

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