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In Re:
TOWN OF HAVERSTRAW ZONING BOARD APPEALS MEETING

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August 10, 2022
7:00 p.m.

ZONING BOARD APPEALS MEETING held at One
Rosman Road, Garnerville, New York, before a Notary
Public of the State of New York.

DRAFT

SANDY SAUNDERS REPORTING
254 South Main Street, Suite 216
New City, New York 10956
(845) 634-7561

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1
2 APPEARANCES:
3 GREGG LAWLESS, CHAIRMAN
4 WILBUR ALDRIDGE
5 CARLOS BARRETT
6 CHRISTIE ADDONA, ESQ., ASSISTANT PLANNING BOARD ATTORNEY
7 MICHAEL D. KAUKER, PLANNING CONSULTANT
8 GEORGE T. BEHN, JR., BUILDING INSPECTOR
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Page 3

1 PROCEEDINGS
2 THE CHAIRMAN: Good evening, everybody,
3 please stand for the Pledge.
4 (Whereupon, the Pledge of Allegiance was
5 recited.)
6 THE CHAIRMAN: Good evening. Today is
7 Wednesday, August 10, 2022. This is the regularly
8 scheduled meeting of the Haverstraw Zoning Board of
9 Appeals.
10 I will call the roll. Mr. Aldridge?
11 MR. ALDRIDGE: Here.
12 THE CHAIRMAN: Mr. Barrett?
13 MR. BARRETT: Here.
14 THE CHAIRMAN: Mr. Cleary?
15 Mr. Margiotta?
16 Okay. First item on the agenda will be
17 the adoption of the minutes from the July 13, 2022
18 meeting. Can I get a motion?
19 MR. ALDRIDGE: So moved.
20 MS. ADDONA: Mr. Chairman, before we go
21 into that motion, I just recommend that the minutes
22 be adopted with one slight amendment. On page 117,
23 line 11, it states that the variance was for 0.84,
24 but it was actually 0.084, so if the Board could
25 just adopt the minutes as amended.

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1 PROCEEDINGS
2 THE CHAIRMAN: Can I have a motion to
3 adopt the minutes.
4 MR. ALDRIDGE: Move to adopt with the
5 necessary corrections.
6 MR. BARRETT: I second it.
7 THE CHAIRMAN: All in favor?
8 (Whereupon, all of the Board Members
9 responded "Aye.")
10 THE CHAIRMAN: Motion carries.
11 Back to our first item on the agenda
12 where we adopt the minutes from the July 13th
13 meeting with the said changes.
14 MS. ADDONA: That's what you just said.
15 THE CHAIRMAN: Okay, we're good.
16 Moving on. The first item on the agenda
17 will be.
18 MS. ADDONA: Mr. Chairman, just for the
19 record, in case anyone is here on one of the
20 adjourned applications, I'm just going to state for
21 the record 81 West Ramapo Road, LLC, 81 West Ramapo
22 Road, is a continuation of the Public Hearing,
23 which has been adjourned to September 13th.
24 Genesis Iciano, 9 Oakley Boulevard, also
25 a continuation of a Public Hearing, has been

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1 PROCEEDINGS
2 adjourned to October 12th.
3 And Efrain Castro, 69 North Central
4 Highway, also a continuation of the Public Hearing,
5 adjourned to September 13th.
6 So if anyone is here on any of those
7 three applications, they will not be heard this
8 evening. The first and only item on the agenda for
9 this Board this evening is Zoraida Sharkey
10 Encarnacion, 2 Parker Road, Thiells, Section 25.08,
11 Block 01, Lot 75, continuation of Public Hearing.
12 We've received comments from the Rockland
13 County Department of Planning from the GML
14 referral. Is the applicant present?
15 MS. ENCARNACION: Yes.
16 THE CHAIRMAN: Good evening. Can you
17 just describe what you would like to do for the
18 Board again.
19 MS. ENCARNACION: My name is Zoraida
20 Encarnacion, 2 Parker Road, Garnerville, New York.
21 I'm here for the last meeting requesting the
22 addition of an accessory building on my property.
23 When I was here, the Board said that they had just
24 received some information and that I needed to come
25 back today.

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1 PROCEEDINGS

2 AUDIENCE MEMBER: We can't hear her.

3 MS. ADDONA: To reiterate what the

4 applicant said, she was here last month and we had

5 just received some information in the form of

6 comments from the Rockland County Department of

7 Planning, we had not had an opportunity to review

8 them yet, and therefore, we had to carry over the

9 application to this meeting this evening.

10 We have received those comments, so the

11 Board, if so inclined, is in a position to move

12 forward on your application.

13 THE CHAIRMAN: Do any of the members on

14 the Board have any questions?

15 MR. ALDRIDGE: No, we answered them the

16 last time.

17 MR. BARRETT: No questions.

18 THE CHAIRMAN: No questions by the Board.

19 Does anybody from the public wish to be heard?

20 Please step forward on 2 Parker. Nobody?

21 Make a motion to close the Public

22 Hearing.

23 MR. ALDRIDGE: So moved.

24 MR. BARRETT: Second.

25 THE CHAIRMAN: Mr. Aldridge made a motion

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1 PROCEEDINGS

2 of a detached accessory dwelling from a principal

3 dwelling of 12.7 feet, where 15 feet is required.

4 6-foot variance to allow an accessory

5 building 4 feet from the rear lot line where

6 10 feet is required.

7 Whereas, the applicant also requires the

8 following variances due to existing nonconforming

9 conditions on the property, due to the fact that

10 the Briar Park Homes subdivision filed 8/13/1956

11 was built prior to the adoption of zoning

12 regulations of the Town of Haverstraw and the

13 property must now conform to the bulk regulations

14 within the R-15 Zoning District adopted 3/17/1958:

15 819-square foot variance where the

16 property is 14,181 square feet and 15,000 square

17 feet is required.

18 6.1-foot variance to allow a rear yard

19 depth of 28.9 feet where 35 feet is required.

20 4.1-foot variance to allow a front yard

21 depth of 25.9 feet, where 30 feet is required.

22 Whereas, a duly noticed Public Hearing

23 was opened on this application at the ZBA's regular

24 meeting on July 13, 2022 and continued to the ZBA's

25 August 10, 2022 meeting, and members of the public

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1 PROCEEDINGS

2 to close the Public Hearing. Seconded by

3 Mr. Barrett.

4 All in favor?

5 (Whereupon, all of the Board Members

6 responded "Aye.")

7 THE CHAIRMAN: Motion carries.

8 MS. ADDONA: Mr. Chairman, I did prepare

9 a resolution for the Board's consideration this

10 evening, which I will read for the record now.

11 Application of Zoraida Sharkey

12 Encarnacion, 2 Parker Road, Garnerville, New York.

13 Section 26.09, Block 5, Lot 31. R-15 Zoning

14 District.

15 Whereas, the applicant has appealed to

16 the Town of Haverstraw Zoning Board of Appeals,

17 from a determination by the Building Inspector

18 dated June 6, 2022, that the applicant's proposed

19 construction of a 12-foot by 24-foot accessory

20 building, garage, does not comply with Chapter 167

21 of the Town of Haverstraw Zoning Code, and

22 Whereas, the applicant now seeks the

23 following area variances related to the proposed

24 garage:

25 2.3-foot variance to allow the location

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1 PROCEEDINGS

2 having the opportunity to appear and be heard, the

3 Public Hearing was closed on August 10, 2022; and

4 Whereas, in support of the application,

5 the applicant submitted a signed and sealed plan by

6 Robert E. Sorace, PLS, entitled "Proposed Accessory

7 Structure and Proposed Fence" dated May 17, 2022,

8 hereinafter referred to as the "Approved Plan," and

9 Whereas, in accordance with General

10 Municipal Law Section 239-L and -M, this

11 application was referred to the Rockland County

12 Department of Planning, which responded by letter

13 dated July 13, 2022, recommending certain

14 modifications that are addressed as follows:

15 As a condition of this approval and prior

16 to obtaining a building permit, the applicant

17 shall:

18 1. Submit its proposed plan and any

19 other required information to the New York State

20 Department of Transportation and any comments or

21 concerns by the DOT must be addressed by the

22 applicant and all required permits obtained.

23 2. Submit its proposed plan and all

24 other required information to the Rockland County

25 Department of Health to ensure compliance with the

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PROCEEDINGS

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2 Rockland County Sanitary Code, Article XIX,
3 Mosquito Control.

4 3. Ensure the requirements of the Town
5 Zoning Code, Article XIII, Shade Tree Commission,
6 Section 167-88 through 167-97 have been complied
7 with.

8 4. Revise the approved plan to reflect
9 the variances that are required and approved in
10 accordance with this resolution.

11 Whereas, having made personal inspection
12 of the premises and being familiar there with, and
13 after duly considering all the proofs and evidence
14 before it, this Board determines as follows:

15 It is hereby resolved, this is a Type II
16 action under the State Environmental Quality Review
17 Act and therefore no further action is required;

18 And be it further resolved, based upon
19 the facts set forth above and the representations
20 made by the applicant, the findings of this Board
21 are as follows:

22 A. There will be no undesirable change
23 produced in the character of the neighborhood or
24 detriment to nearby properties as a result of the
25 variances. The proposed detached garage will be in

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PROCEEDINGS

1
2 6-foot-high fence that will partially conceal the
3 garage from the neighbor to the west. The
4 existence of the garage will also conceal a vehicle
5 that would otherwise be parked in the driveway.

6 E. The difficulty is self-created
7 because the applicant wants to install a garage in
8 a location that does not comply with the
9 requirements of the zoning code, but this factor is
10 not determinative and does not preclude the
11 granting of the area variances. The difficulty is
12 not self-created to the extent that the property is
13 legal, nonconforming as to certain bulk
14 requirements that were implemented after the
15 subdivision, of which this property is a part, was
16 approved and constructed.

17 And it is further resolved, based upon
18 the foregoing findings, the applicant's request for
19 the variances set forth above is granted, subject
20 to the following conditions:

21 1. The variances are granted solely in
22 connection with the approval plan and the variances
23 are granted only to the extent that they are
24 necessary for the applicant to construct the
25 detached garage and legalize the existing

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PROCEEDINGS

1
2 line with the existing driveway and the garage will
3 allow for vehicles to be concealed as opposed to
4 being parked in the driveway. In addition, other
5 properties in the area also have detached garages.

6 B. The benefit sought by the applicant
7 cannot be achieved by some method feasible for the
8 applicant to pursue, other than the area variances.
9 This is the only feasible location for the detached
10 garage, given the location of the existing driveway
11 and the house. The applicant also needs the garage
12 to be a certain size in order to have its intended
13 utility.

14 C. The Board finds that, given this is a
15 corner lot with two front yards and the existing
16 location of the driveway and house on the property,
17 the variances related to the proposed garage are
18 not substantial. The variances related to the
19 existing nonconforming conditions on the property
20 are also not substantial.

21 D. There will be no adverse effect or
22 impact on the physical or environmental conditions
23 in the neighborhood or district from the requested
24 variances. The garage will be a lower height than
25 the existing house, and there is proposed to be a

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PROCEEDINGS

1
2 nonconforming conditions on the property. If any
3 changes are made to the approved plan, other than
4 those deemed by the Building Inspector to be minor
5 field changes, this variance grant becomes void and
6 the applicant must make a new application to the
7 ZBA for approval of any and all variances.

8 2. The granting of this application
9 shall not be deemed to relieve the applicant of the
10 need to obtain approval from any other board,
11 department, agency, or officer prescribed by law or
12 ordinance with regard to the plans or construction
13 or any other phase of the project. The granting of
14 this application shall not be deemed to relieve the
15 applicant of the need to comply with any and all
16 other local, county, state, and federal
17 requirements, including but not limited to
18 compliance with the New York State Uniform Fire
19 Prevention and Building Code.

20 3. The applicant shall comply with the
21 requirements provided in the discussion of the
22 ZBA's responses to the Rockland County Department
23 of Planning's comments on pages 1-2 herein.

24 4. These variances are granted subject
25 to the accuracy of the representations made by the


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PROCEEDINGS

1 applicant and its representatives to the ZBA in its
 2 written submission and during the Public Hearing.
 3 If any material representation, whether or not it
 4 is included in this resolution, is found to be
 5 inaccurate, at the discretion of the ZBA, the
 6 variance grant may be deemed void, in which case
 7 the applicant must make a new application to the
 8 ZBA for approval of any and all variances.
 9 5. The failure to observe and perform
 10 these conditions shall render this resolution
 11 invalid.
 12 Dated as of August 10, 2022.
 13 THE CHAIRMAN: Can I have a motion to
 14 accept the resolution.
 15 MR. ALDRIDGE: So moved.
 16 MR. BARRETT: Second.
 17 THE CHAIRMAN: Motion made by
 18 Mr. Aldridge. Seconded by Mr. Barrett.
 19 All in favor?
 20 (Whereupon, all of the Board Members
 21 responded "Aye.")
 22 THE CHAIRMAN: Motion carries.
 23 Can I have a motion to adjourn the
 24 meeting.
 25

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C E R T I F I C A T I O N

1 Certified to be a true and accurate
 2 transcript of the stenographic minutes taken
 3 within.
 4
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 6 
 7 Ashley Millan,
 8 Senior Court Reporter
 9
 10 Dated: August 16, 2022
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AMM

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PROCEEDINGS

1 MR. ALDRIDGE: So moved.
 2 MR. BARRETT: Second.
 3 THE CHAIRMAN: Motion made by Mr.
 4 Aldridge. Seconded by Mr. Barrett.
 5 All those in favor, say aye.
 6 (Whereupon, all of the Board Members
 7 responded "Aye.")
 8 THE CHAIRMAN: Motion carries.
 9 (Whereupon, the meeting was adjourned.)
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1 Errata Sheet
 2
 3 NAME OF CASE: In Re: TOWN OF HAVERSTRAW ZONING BOARD MEETING
 4 DATE OF DEPOSITION: 08/10/2022
 5 NAME OF WITNESS:
 6 Reason Codes:
 7 1. To clarify the record.
 8 2. To conform to the facts.
 9 3. To correct transcription errors.
 10 Page ____ Line ____ Reason ____
 11 From _____ to _____
 12 Page ____ Line ____ Reason ____
 13 From _____ to _____
 14 Page ____ Line ____ Reason ____
 15 From _____ to _____
 16 Page ____ Line ____ Reason ____
 17 From _____ to _____
 18 Page ____ Line ____ Reason ____
 19 From _____ to _____
 20 Page ____ Line ____ Reason ____
 21 From _____ to _____
 22 Page ____ Line ____ Reason ____
 23 From _____ to _____
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