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In Re:

TOWN OF HAVERSTRAW BOARD of ZONING APPEALS MEETING

-----x

March 9, 2022  
7:00 p.m.

Board of Zoning 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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2 APPEARANCES:  
3 LARRY MARGIOTTA, CHAIRMAN  
4 WILBUR ALDRIDGE  
5 CARLOS BARRETT  
6 PAUL CLEARY  
7 CHRISTIE ADDONA, ESQ., ASSISTANT PLANNING BOARD ATTORNEY  
8 MICHAEL D. KAUKER, PLANNING CONSULTANT  
9 GEORGE T. BEHN, JR., BUILDING INSPECTOR  
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1 Proceedings  
2 THE CHAIRMAN: Please stand for the  
3 pledge.  
4 (Whereupon, the Pledge of Allegiance was  
5 recited.)  
6 THE CHAIRMAN: Michelle, can you call the  
7 roll, please.  
8 THE CLERK: Greg lawless?  
9 Paul Cleary?  
10 MR. CLEARY: Here.  
11 THE CLERK: Larry Margiotta?  
12 THE CHAIRMAN: Here.  
13 THE CLERK: Wilbur Aldridge?  
14 MR. ALDRIDGE: Here.  
15 THE CLERK: Carlos Barrett?  
16 MR. BARRETT: Here.  
17 THE CHAIRMAN: The first item of business  
18 will be Efrain Castro.  
19 MS. ADDONA: This is a continuation of  
20 the public hearing for the record.  
21 MR. CELETANO: Yes, my name is Anthony  
22 Celetano, I'm the engineer for the applicant. The  
23 last time we were here, we received a GML letter  
24 from the County. Recently, we resubmitted new maps  
25 addressing the GML, and also we submitted a

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1 Proceedings  
2 narrative responding to each inquiry of the county.  
3 In light of that, one of the variances we  
4 did not catch was the accessory structure for the  
5 pool house in the back. It's only 10 feet from the  
6 lot line, and due to the height of the pool house  
7 being 12 feet, it needed to be 18, so we needed an  
8 additional variance. So we would like to push off  
9 to next meeting so we could re-notice with the  
10 proper variances, if it's acceptable to the Board.  
11 And also the Board will have time to review the new  
12 plan and the responses to the County.  
13 MS. ADDONA: George, do you agree with  
14 that?  
15 MR. BEHN: I do.  
16 MS. ADDONA: Okay.  
17 THE CHAIRMAN: Are there any questions  
18 from the public? I guess the next month, the 13th  
19 of April, we will have a continuation.  
20 MR. CELETANO: Yes, sir.  
21 THE CHAIRMAN: Can I have a motion,  
22 please?  
23 MR. BARRETT: I make a motion.  
24 MR. CLEARY: Second.  
25 THE CHAIRMAN: Motion made by

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1 Proceedings  
2 Mr. Barrett. Second by Mr. Cleary. All in favor?  
3 (Whereupon, all of the Board Members  
4 responded "Aye.")  
5 THE CHAIRMAN: Motion carries.  
6 MS. ADDONA: Just for the record, 81 West  
7 Ramapo Road, LLC, 81 West Ramapo Road,  
8 Section 26.09, Block 4, Lot 1, has been adjourned,  
9 so if anyone is here on that application, it will  
10 not be heard tonight. It will be heard at the  
11 April 13th meeting.  
12 THE CHAIRMAN: Okay, second with James  
13 and Denise Monte of Garnerville.  
14 MS. ADDONA: I'm just going to read the  
15 Public Hearing notice for the record. Please take  
16 notice the Town of Haverstraw Zoning Board of  
17 Appeals shall hold a Public Hearing to consider the  
18 application of James and Denise Monte at 9 Cinder  
19 Road, Garnerville, to construct a 35-foot by  
20 25-foot addition. The following variances are  
21 required:  
22 Relief from Section 172-21(b), sight  
23 distance. The proposed addition encroaches on the  
24 prescribed triangular area as defined in  
25 Section 172-21(b), Sketch A.

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1 Proceedings

2 The front yard setback, South Park Drive,

3 requirement is 30 feet. 10.7 feet is provided. A

4 19.3-foot variance is required.

5 The front yard setback, Cinder Road,

6 requirement is 30 feet. 22.7 feet is provided. A

7 7.3-foot variance is required.

8 Accessory building setback in the R-15

9 Zoning District. Requirement is 10 feet. 5.3 feet

10 is provided. A 4.7-foot variance is required.

11 Said property being located on the

12 northwest corner at the intersection of Cinder Road

13 and South Park Drive, and located on the Town of

14 Haverstraw Tax Map as Section 20.14, Block 4, Lot

15 42.

16 Said Public Hearing shall be held on

17 Wednesday, March 9, 2022, at 7:00 p.m. in the large

18 meeting room of Haverstraw Town Hall, One Rosman

19 Road, Garnerville.

20 All interested parties are invited to

21 attend and will be heard by the Board.

22 By order of the Zoning Board of Appeals

23 of the Town of Haverstraw.

24 Did you submit the Public Hearing notices

25 and proof of mailings?

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1 Proceedings

2 this addition.

3 We're here, we do need a GML because

4 we're within 500 feet from the Village of West

5 Haverstraw, our 30 days hasn't expired.

6 Any questions, we will gladly answer, but

7 we will have to come back next month to continue

8 with the application.

9 THE CHAIRMAN: Does the Board have any

10 questions? Anybody from the public wish to speak

11 on this matter?

12 May I have a motion that we hold this

13 over until next month.

14 MR. ALDRIDGE: So moved.

15 MR. BARRETT: I second.

16 THE CHAIRMAN: Motion made by Mr. Wilbur.

17 Second by Mr. Barrett. All in favor?

18 (Whereupon, all of the Board Members

19 responded "Aye.")

20 THE CHAIRMAN: Motion carries.

21 MR. CELETANO: Thank you.

22 THE CHAIRMAN: Third on the agenda, 62

23 Riverglen Drive, Thiells.

24 MS. ADDONA: I'm just going to read the

25 Public Hearing notice for the record.

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1 Proceedings

2 MR. CELETANO: Not yet.

3 MS. ADDONA: They haven't noticed the

4 Public Hearing yet. Okay, so this is just on for

5 preliminary hearing. Okay.

6 MR. CELETANO: We will give you a little

7 brief history of the project. The couple here, the

8 Montes, have an elderly mother who's widowed and

9 has medical needs, and they're putting this

10 addition for her so that she has a place to stay

11 there. They positioned the addition in a place

12 where she will have some privacy from the rest of

13 the family, have some independence, yet they will

14 be able to watch here if she needs any assistance.

15 Now, with respect to the variances, we

16 need the front yard, and that's the position of the

17 addition. In addition, the site triangle, we

18 encroach a little bit on that, but if you look at

19 the position of South Park and Cinder Road, the

20 driving movements will not be interfered by this

21 addition. This is a three-way driving movement.

22 People coming down Cinder Road make a right onto

23 South Park, and then the people on South Park make

24 a left onto Cinder or go straight. So none of the

25 driving vehicles will have any obstructions due to

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2 Please take notice the Town of Haverstraw

3 Zoning Board of Appeals shall hold a Public Hearing

4 to consider the application of K'hal Bnei Torah of

5 Mount Ivy, 62 Riverglen Drive, Thiells, for the

6 following variances:

7 The following variances are required for

8 the conversion of an existing single-family

9 dwelling into a house of worship, as per proposed

10 site plan:

11 1. Minimum lot width: Required is 200

12 feet. Proposed is 183.94 feet. A 16.06-foot

13 variance is required.

14 2. Minimum street frontage: Required is

15 200 feet. Proposed is 177.53 feet. A 22.6-foot

16 variance is required.

17 3. Minimum front yard setback: Required

18 is 60 feet. Proposed is 37.4 feet. A 22.6-foot

19 variance is required.

20 4. Minimum side yard setback: Required

21 is 35 feet. Proposed is 16.7 feet. A 18.3-foot

22 variance is required.

23 5. The maximum floor area ratio is 0.10.

24 The proposed is 0.188. A 0.088 variance is

25 required.

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2 6. As per 167-58-D(1) "parking areas

3 shall be located only in side and rear yards".

4 The proposed 27-spot parking lot is, in part,

5 located in the front yard. Relief from this

6 provision is required.

7 7. As per 167.58(d), there is a

8 requirement for one parking spot for every

9 250 square feet of accessory use. There is

10 2500 square feet of accessory use proposed,

11 creating a need for 10 additional parking spots.

12 The proposed parking lot provides for 27 spots.

13 The required number of spots is 37. A 10-spot

14 parking variance is required.

15 Said property being located on the west

16 side of Riverglen Drive and north of Dunnigan

17 Drive.

18 Located on the town of Haverstraw Tax Map

19 as Section 25.12, Block 01, Lot 31.

20 Said Public Hearing shall be held on

21 Wednesday, March 9, 2022, at 7:00 p.m. in the

22 large meeting room of Haverstraw Town Hall, One

23 Rosman Road, Garnerville.

24 All interested parties are invited to

25 attend and will be heard by the Board.

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2 MR. EMANUEL: Thank you.

3 Good evening, Ira Emanuel, Emanuel Law,

4 P.C., New City, New York. I'm the attorney for the

5 applicant. I have also with me this evening Ken

6 DeGennaro from Brooker Engineering, this is the

7 consulting engineer on the project.

8 This is an application to convert and

9 expand an existing single-family home at 62

10 Riverglen Drive to be used as a house of worship.

11 Houses of worship are permitted as of right in all

12 zoning districts of the Town of Haverstraw,

13 including the R-25 Zoning District, which this

14 property is located.

15 Although they're permitted in all zoning

16 districts, the bulk regulations for houses of

17 worship are different from the bulk regulations for

18 single-family homes. So when this home was

19 originally built as a single-family home, it

20 complied with all zoning requirements at the time.

21 Since we're looking to expand the property and to

22 use it as a house of worship, the applicant needs

23 to be cognizant of the bulk regulation, the

24 different bulk regulations that are attended to a

25 house of worship.

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2 By order of the Zoning Board of Appeals

3 of the Town of Haverstraw.

4 And just before we hear from the

5 applicant, I would like to make one statement. We

6 did receive a letter today that was addressed to

7 me, as the Zoning Board attorney, from Ken Borden,

8 the acting president of Coupon of Haverstraw,

9 requesting the Public Hearing be adjourned because

10 he did not have the minutes of the February

11 meeting. I will work with Town staff to get the

12 minutes to Mr. Borden and all members of the public

13 as soon as possible, but I do not see this as a

14 basis to not open the Public Hearing.

15 The Public Hearing was noticed for

16 tonight, and there may be other members of the

17 public present who would like to speak on matters

18 not directly related to the February minutes. In

19 addition, the Board cannot take any action tonight

20 because the Planning Board has yet to make a SEQRA

21 determination, so there will be additional

22 opportunity for members of the public to comment,

23 specifically with respect to the February meeting

24 minutes in the future if they wish to do so.

25 Mr. Emanuel.

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2 That is why we are here this evening,

3 because many in of those cases, many of those

4 dimensions, those dimensions cannot be met, in

5 large part because we have an existing house that

6 was built, and to a certain degree because the

7 regulations with respect to houses of worship are

8 either onerous or inappropriate for the use that

9 are being proposed.

10 The proposed house of worship has been

11 worked on with town staff, town consultants, and

12 with the Planning Board for over a year now. The

13 original proposal was for a house of worship that

14 would be able to have 200 congregants at a time.

15 Working with your consultants, that capacity was

16 reduced first to 119 congregants, and then down to

17 107 congregants, which is where we are now.

18 The 27 parking spaces that are proposed

19 are sufficient under your code for a house of

20 worship with 27 congregants, however, because there

21 is also a gathering hall that is being proposed,

22 there are additional parking spaces that are

23 required by your code, but as we will discuss

24 later, we do not believe the additional parking

25 spaces are actually needed.

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2 With that, with permission of the Chair,

3 I would like to turn it over to Mr. DeGennaro, who

4 will walk us through, walk the Board and walk the

5 public through the site, and then we will be able

6 to have a discussion as to the variances that we're

7 asking for.

8 MR. DeGENNARO: Hi, my name is Ken

9 DeGennaro, I'm a civil engineer for the project, I

10 work for Brooker Engineering in Suffern, New York.

11 So again, the project consists of

12 constructing an addition in the rear of the

13 existing residence and modifying the existing

14 residence so it would be functioning as a synagogue

15 for the congregants. On this site plan, the tan

16 building is the proposed conditions for the

17 structure. In the front, you have the existing

18 residence, the footprint of which will remain the

19 same, and in the rear you have a 40-foot-deep by

20 55-foot-wide addition. The addition will be

21 two stories, and it is slightly less narrow than

22 the width of the existing building.

23 In terms of the site, the land slopes

24 downhill moderate, in some cases, a steep slope as

25 per the town code, slopes downhill to the west. If

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2 parking lot. That will receive storm water runoff

3 from the new parking lot and the building, have

4 underground detention, release it at a slower rate

5 at increased and peak run off rates, meet the DEC

6 and town criteria for that.

7 There is proposed landscaping and a fence

8 along the south side of the parking lot to help

9 provide screening so headlights don't spill over

10 onto the adjacent property, and there are two poles

11 for lights that shine towards the parking lot

12 towards the house. We prepared an isolux curve

13 that shows that there's no light spillover onto the

14 adjacent properties.

15 So if there's any other specific

16 questions about the site plan.

17 MR. EMANUEL: Ken, before you stop, would

18 you point out the conservation easement.

19 MR. DeGENNARO: Okay, so the conservation

20 easement is 100 feet wide and it is along the rear

21 property line, and then it turns east,

22 perpendicular to Riverglen Road, and it is also

23 100 feet wide along the -- offset from the southern

24 property line. And that was part of the original

25 subdivision plat.

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2 you're looking really straight on at the building,

3 at the structure, you won't see the addition, it's

4 going to be behind it, it's not going to be higher

5 in elevation.

6 Beyond that, there is a proposed parking

7 lot to the south of the structure, that's the gray

8 area here. This is located at about the same

9 location where the existing driveway is, however,

10 it's being enlarged to accommodate the proposed

11 vehicles, parking for the proposed vehicles. And

12 since the land slopes down at a moderate slope, we

13 are bringing in fill to raise the grade to create a

14 flatter area to park on. Again, that still has a

15 downhill slope, but it's what's appropriate for a

16 parking lot.

17 Beyond that, we introduce some retaining

18 walls to limit the disturbance along the rear and

19 the side so the retaining walls are, at the

20 greatest height in the rear, not visible from the

21 street, and it becomes a smaller retaining wall

22 along the south side.

23 The existing house connections for

24 utilities will remain, and there is a proposed

25 storm water management system for detention in the

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2 MR. EMANUEL: The variances that are

3 being requested were set forth in the notice. I

4 will just list the dimensions without going into

5 the number of feet involved. We're looking for

6 variances with respect to lot width, street

7 frontage, front yard, side yard, FAR, number of

8 parking spaces, and parking in a required front

9 yard.

10 The lot width, street frontage, front

11 yard, and side yard conditions are existing, we're

12 not making any changes to that, no changes are

13 proposed, but the reason we need variances from

14 them again is because the bulk requirements for a

15 house of worship are different from those for a

16 single-family house.

17 The dimensions that are being affected by

18 the proposal, the physical aspects of the proposal

19 are for FAR, the house is being -- the structure is

20 being increased in size. Number of parking spaces,

21 which we discussed a little bit earlier; and

22 parking in the required front yard, which

23 Mr. DeGennaro just went through.

24 With respect to parking in the front

25 yard, the location of the parking lot is also one

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 2 of the things that was worked on with the  
 3 consultants to the Planning Board. Originally, we  
 4 had put the parking deeper into the lot in order to  
 5 try to avoid encroaching into the required front  
 6 yard because we were aware of this requirement;  
 7 however, the consultants to the town prevailed upon  
 8 us to move the parking area closer to the front in  
 9 order to get it out of the rear portion of the  
 10 conservation easement. They felt that that was a  
 11 more important feature to protect than a required  
 12 front yard, especially given the grade and given  
 13 the ability that we would have to provide  
 14 landscaping that would shield the parking area in  
 15 the front yard from the street.  
 16 With respect to FAR, the zoning code  
 17 allows FAR of up to 0.1 for houses of worship, and  
 18 conceivably we are at more than that, at 0.188.  
 19 The FAR is a reflection in part of the need to  
 20 provide a sanctuary and worship space for this  
 21 congregation. It is, in part, because of the need  
 22 to provide a gathering space for congregants to use  
 23 after worship services.  
 24 For those of you who are not familiar  
 25 with Orthodox Jewish customs, and this is an

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 2 will then drive home.  
 3 So there will be vehicles parked there,  
 4 there is a need for a parking area, but there is  
 5 not a need for extra parking spaces for the  
 6 gathering hall, as required by your code.  
 7 With respect to FAR, I found something  
 8 really, really interesting in your code while doing  
 9 my research on this. And I double checked it  
 10 today because I still didn't believe it today, even  
 11 though I had read it. Your code does not have an  
 12 FAR limitation for single family homes, it just  
 13 does not. It has an FAR limitation on houses of  
 14 worship and other types of uses, but not for  
 15 single-family homes, so how do you control the size  
 16 of a single-family home? Well, you do have a  
 17 limitation on what we call building coverage. In  
 18 other words, the footprint of the building on the  
 19 lot, and that's expressed in a percentage. You  
 20 also have a limitation on height.  
 21 The interesting thing is that when you  
 22 take this lot and you apply those limitations for a  
 23 single-family home, you can build a much, much  
 24 bigger home on this site without any Board  
 25 approvals, just going to Mr. Behn and getting a

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 2 Orthodox Jewish house of worship that is being  
 3 proposed, services tend to be lengthy, especially  
 4 on the Sabbath and high holy days, they tend to run  
 5 two hours, sometimes longer. It is customary to  
 6 gather afterwards for a light meal or a snack  
 7 afterwards, and so the folks that would be in the  
 8 sanctuary would be the same folks that would be  
 9 going downstairs into the gathering space.  
 10 That's important for you to know because  
 11 your code requires extra parking spaces for that  
 12 gathering space, but there won't be any extra cars.  
 13 As a matter of fact, on Saturdays and holidays,  
 14 Sabbath holidays there really won't be very many  
 15 cars there at all because Orthodox Jews are not  
 16 permitted to drive on the Sabbath. There will be  
 17 some cars there, okay, and the reason there will be  
 18 some cars there is because, although most of the  
 19 members of the community will walk to services and  
 20 walk back home from services, others who live  
 21 further away will drive there prior to the  
 22 beginning of the Sabbath or prior to the beginning  
 23 of the holiday, park the car, leave it there over  
 24 night, okay, and then when the Sabbath or the  
 25 holiday is over and they're able to drive, they

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 2 building permit, than you can a house of worship.  
 3 In fact, and I want to get this right, I  
 4 calculated that you can build a house, as of right,  
 5 no Board approvals, of over 19,600 square feet on  
 6 this lot. That's huge, that's more than -- that's  
 7 two and a half times the size of the house of  
 8 worship that is being proposed here. There is a  
 9 set of laws, statutes, and case law that protects  
 10 religious uses and religious expression, and you  
 11 all heard, or I'm assuming you've all heard the  
 12 term RLUIPA, that's the Religious Land Use and  
 13 Institutionalized Persons Act, which is a federal  
 14 statute, which was enacted to protect religious  
 15 institutions from onerous land use provisions.  
 16 There is also a body of case law in New York state  
 17 which doesn't have any name that you can say with  
 18 one word, that also in fact, in many ways, goes  
 19 further than RLUIPA, and actually says that houses  
 20 of worship are, quote, inherently beneficial,  
 21 unquote, to residential areas. You cannot, in New  
 22 York state, prohibit a house of worship, or a  
 23 school, for that matter, from a residential area.  
 24 Both federal law and state law say quite clearly  
 25 that if there is an impediment to religious use,

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2 which is the equivalent of an impediment to

3 religious expression, then it's up to the

4 community, you folks, to find a way to remove that

5 substantial burden. One of the ways that you can

6 do that is through the granting of variances.

7 Now, we've put together a narrative that

8 is fairly lengthy that hopefully you've had an

9 opportunity to review, that goes through the

10 balancing test that you're all familiar with, I'm

11 sure, for area variances. It talks about the

12 religious protections that are given in federal and

13 state law. I hope that you will absorb that. If

14 you have questions this evening, I will try to

15 answer them. If we can't answer them this evening,

16 then I do know that we will be coming back probably

17 in April and we will answer them at that time.

18 So if the Board has any questions, we're

19 happy to try to answer.

20 MR. BARRETT: Yes, I have a question.

21 Thank you for explaining the situation about the

22 parking spaces.

23 MR. EMANUEL: You're welcome.

24 MR. BARRETT: You said that the

25 congregants, that the limit is 200?

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2 I understand. I did ask about that, as a matter of

3 fact, and that facility is approximately 50 to 60

4 people that can be accommodated there. They have

5 10 to 15 vehicles at a peak. So we're in that

6 range.

7 I do understand the congregation

8 understands that parking overnight is not permitted

9 during the winter months, and any congregant that

10 parks overnight on the street during the winter

11 months when it's not permitted should be ticketed

12 and, if necessary, towed, period, end of story.

13 Just like anybody else, you know. People in the

14 neighborhood I'm sure will occasionally have

15 get-togethers and they will have people coming over

16 and maybe parking on the street. It does happen.

17 On-street parking is permitted. If overnight

18 parking is not permitted, ticket them.

19 MS. ADDONA: I will just say for this

20 Board's information, as I indicated earlier, the

21 Planning Board has been going through the SEQRA

22 process, which is the environmental review, and as

23 part of that, they do have a traffic consultant,

24 \*Andrew Balari from Stonefield who is here this

25 evening, and we have been looking at traffic, and

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2 MR. EMANUEL: I'm sorry?

3 MR. BARRETT: 200 congregants at the

4 house of worship.

5 MR. EMANUEL: No, the original proposal

6 was for 200, was for a facility that would house

7 200. We are at 107.

8 MR. BARRETT: Okay, so in other words, if

9 you had any more congregants, you cannot go any

10 further than that.

11 MR. EMANUEL: They can't go at this

12 facility, no.

13 MR. BARRETT: Thank you.

14 THE CHAIRMAN: I have a question. The

15 parking lot, you're saying it's not going to spill

16 over into the street, it's only going to be X

17 amount of cars there. On a Friday night, could

18 this parking lot be full and the street be double

19 parked there waiting for --

20 MR. EMANUEL: I have been a lawyer too

21 long to give a definitive answer to almost

22 anything, Mr. Chairman. The great likelihood is

23 that this parking area will be sufficient for the

24 number of congregants that they have. The

25 congregation is meeting at a location on Route 202,

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2 Andrew has been looking at whether there are any

3 mitigation measures that would need to be

4 recommended or implemented. So that will be

5 addressed as part of the SEQRA process, which will

6 have to be concluded before this Board takes any

7 action.

8 THE CHAIRMAN: Anyone else?

9 MR. CLEARY: When did the current owners

10 purchase this property?

11 MR. EMANUEL: Two years ago.

12 MR. CLEARY: There were no other lots

13 available in the area that would meet the

14 requirements of this building?

15 MR. EMANUEL: I am told that the reason

16 why they did pick this lot was, because it met the

17 overall lot area of one acre and also because it's

18 proximate to where congregants live. Again, most

19 of these folks are going to be walking to and from

20 services, and so you want to be within relatively

21 close proximity.

22 MR. CLEARY: Thank you.

23 MR. EMANUEL: Thank you.

24 THE CHAIRMAN: Anybody from the public

25 wish to speak on this matter?

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2 MS. ADDONA: There is a sign-in sheet at

3 the front. Please sign with your name and address

4 so that we can get it correctly for the

5 stenographer.

6 MR. WASSERMAN: It's Neil Wasserman. I

7 just want to, one of the responses that was said

8 just now, the Ramapo Fire Center, you said that the

9 amount of people allowed in there is between 50 and

10 60 people. At any given Sunday, at this point in

11 time, that means Friday night and Saturday night,

12 there are 27 cars that can park in that lot. That

13 lot is full every Friday to Saturday night. On

14 Sunday, that lot is full, and they're parked on the

15 street because they can park and they can drive

16 away to where they have to go to. So the responses

17 is that your car lot on this lot is not sufficient.

18 That's all I have to say.

19 THE CHAIRMAN: Thank you. Anybody else?

20 MS. SIMON: Hello, my name is Tzippora

21 Simon. I would like to thank each and every one of

22 you for coming tonight. This synagogue is a

23 crucial need for the Jewish people in Haverstraw,

24 and as such I appreciate everyone who took the time

25 out of their busy schedules to come and discuss it,

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2 to come from both parties involved. We want to

3 hear your ideas so we can work with you to build

4 the synagogue in the best, safest, and most

5 beautiful way for our -- our, yours and my,

6 community. So thank you again all for coming.

7 Thank you.

8 THE CHAIRMAN: Okay, thank you. Anyone

9 else from the public wish to speak?

10 MR. MILLET: Marcus Millet, 19 Ossman

11 Drive, Pomona.

12 I would first ask the Board whether it

13 is -- whether the Board, this Board, will consider

14 its encroachment on the conservation easement or

15 whether that needs to be addressed by the Planning

16 Board?

17 MS. ADDONA: That's the purview of the

18 Planning Board.

19 MR. MILLET: Thank you. I won't take the

20 Board's time with that issue right now, however, I

21 do wish to point out that the attorney for the

22 opponents, for the applicant, said that they picked

23 this lot because it had the one-acre lot size. So

24 when they bought that lot, they were aware of the

25 conservation easement, and if they picked it

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2 I do not mean that I only appreciate everyone who

3 came to support it, I mean I appreciate everyone.

4 Why? Because this is a community project. Some of

5 you may not be the ones who will be coming to the

6 synagogue, but you and I are part of the same

7 beautiful community. Synagogues, churches, fire

8 and police departments, schools, are all pieces

9 that make up a community, and although we may have

10 different ideas of how to achieve it, at the end of

11 the day we have the same goal, to live in this

12 beautiful, safe, and cohesive community that each

13 of you as individuals chose to live in.

14 And why do I appreciate the people who

15 will stand up here and voice ideas that may be

16 challenging to the building of the synagogue?

17 Because I get it, that change is scary. We like

18 what we are used to, we are creatures of comfort,

19 but we are not creatures, we are intelligent human

20 beings, and life is about learning, growing, and

21 changing. If your life is not changing and you

22 are not growing as a person, you are not truly

23 living. And in any good relationship, and yes,

24 being in the same community, we all have a

25 relationship, learning, growing, and changing has

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2 because they thought they could build on the

3 conservation easement, I don't understand how that

4 process worked, or why they presumed that they

5 could do that. That's my question.

6 THE CHAIRMAN: Is there anyone else from

7 the public who wishes to speak?

8 MR. CALLIGARIS: Eugene Calligaris, 53

9 Riverglen. I would like to read a letter into the

10 record, it's from Rockland Environmental Group,

11 Susan Shapiro, attorney at law, regarding the house

12 of worship at 62 Riverglen Drive.

13 Dear supervisor, Town Board, Zoning Board

14 of Appeals. I'm submitting this letter on behalf

15 of my clients, residents of the Town of Haverstraw

16 who recently formed Citizens United to protect our

17 neighborhood, Haverstraw. I'm writing with regard

18 to the proposed house of worship on 62 Riverglen

19 Drive, Theills, New York, lot 2512-01-31,

20 identified as lot 11 on the 1984 Carlton Hills

21 subdivision map attached below. In this letter it

22 will be referred to as lot 11. We strongly believe

23 that the town cannot approve the current

24 application because, among other things, it does

25 not apply with many of Haverstraw's longstanding

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2 bulk table land use regulations and it encroaches

3 on a 100 feet easement buffer, which runs with the

4 land.

5 To be clear, this is not a RLUIPA issue,

6 and the neighbor's oppose the proposed encroachment

7 of the conservation easement.

8 Please note that on Carlton Hills

9 subdivision map reproduced below, the 100-foot

10 conservation easement is outlined in pink. We will

11 supply this map to you later if you need it. Lot

12 11 is the most constrained lot within the

13 subdivision, as it has 100-foot conservation

14 easements on both the south and the west side of

15 the lot. The other lots of the subdivision only

16 have a conservation easement on one side.

17 Conservation easement.

18 Conservation easements are conveyed by

19 deed, have a conservation purpose, are in

20 perpetuity, require stewardship and monitoring, are

21 permanent, and may only be extinguished by a Court.

22 Conservation easements are required to remain in

23 natural state, to protect environmental resources.

24 The conservation easement is created for the

25 benefit and protection of the land, recourses, and

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2 conservation easement. Equal application of the

3 law and regulations to both private and religious

4 institution is necessary.

5 Variances. Once again to be clear, this

6 is not an RLUIPA matter. The neighbors do not

7 oppose the use of the lot for religious use,

8 however, the neighbors do oppose the overburdening

9 of a single small lot with the proposed

10 disproportionately large structure. The applicant

11 is seeking an unusually large amount of significant

12 area variances without showing any hardship. It is

13 not the town's obligation to change its

14 long-existing laws and bulk standards for the

15 benefit of one applicant, religious or not.

16 Lot 11 is the smallest lot in the entire

17 subdivision, buildable acreage of the lot is less

18 than one acre due to the existing conservation

19 easements. All the other lots of the subdivision

20 have at least an acre of buildable area. Road

21 frontage for lot 11 is only 44 feet. All of the

22 lots of the subdivision have frontage of 100 feet,

23 100-plus feet. The proposed new structure is 8202

24 square feet. It is over three times larger than

25 the existing structures. The current structure on

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2 all of the residents in the area. The applicant

3 was on notice, when it purchased lot 11, that

4 future development of the property is limited due

5 to the existing conservation easements.

6 In 2020, when another neighbor, Mr. Erwin

7 Needervan, 8 Stonecrest Drive, Thiells, New York,

8 removed dying trees from the conservation easement,

9 he was issued a summons to appear in court for

10 violating the conservation easement. He was fined

11 and made to restore the area in 2021. He only

12 cleared dead trees to prevent them from falling and

13 harming his grandchild. He was told that a

14 conservation easement, as defined by the town, is

15 an undeveloped area used to protect, improve, or

16 enhance lands due to special environmental or other

17 conditions, such as privacy, and was advised he

18 could not even remove dead trees that had fallen as

19 the purpose of the conservation easement was to

20 keep the vegetation in those areas undisturbed.

21 The proposed site plan shows 27 paved

22 parking spaces in the conservation easement, a

23 parking lot approximately 60 by 126. If removal of

24 some dead trees is not allowed, then certainly a

25 large paved parking is not allowed within the

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2 the lot is only 2548 square feet, and the other

3 structures in the well-planned 1983 Carlton Hills

4 subdivision average approximately 2500 square feet.

5 If granted, the large size and amount of

6 variances would result in a de facto zone change.

7 The Town Board cannot grant a proposed zone change

8 of a single lot for a single applicant, as that

9 would be the epitome of spot zoning, nor can the

10 applicant show that there's any hardship. The

11 applicant's self-created desire to build an

12 oversized building on a small lot cannot be a

13 reasonable basis for the granting of excessive

14 variances and encroaching into well-established

15 conservation easements.

16 RLUIPA, the equal terms provision of

17 RLUIPA states no government shall impose or

18 implement a land use regulation in a manner that

19 treats a religious assembly or an institution on

20 less than equal terms with a nonreligious assembly

21 or institution, nor does the Town Board have an

22 obligation to treat a religious institution on

23 better-than-equal terms with a nonreligious

24 assembly or institution. Equal protection is a

25 two-way street. RLUIPA is a shield, not a sword to

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2 allow religious institutions to violate

3 nonreligious neighbor's rights, nor was it enacted

4 to allow religious organizations to demand the

5 removal of conservation easements and changes to

6 well-established zoning standards to suit their

7 desires.

8 RLUIPA allows a religious institution to

9 be able to create a place of worship in residential

10 and commercial zones within the Town, however, it

11 does not create exemptions from land use

12 regulations of size, building to lot ratio,

13 frontage, and other bulk table standards for

14 religious organizations.

15 Here the issue is not whether or not the

16 Town's permitted to allow the religious use of a

17 lot within a residential neighborhood, as under

18 RLUIPA is made, but RLUIPA does not require a town

19 to abandon enforcement of its well-established land

20 use regulations with regards to net buildable

21 acreage, size of structures, encroachment on

22 existing conservation easement in order to grant a

23 religious organization more favorable zoning to

24 nonreligious neighbors, rather, RLUIPA was designed

25 to prevent a town from enacting new laws and

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2 application which does not comply with these land

3 use standards.

4 Thank you for your time and consideration

5 to our concerns and concerns expressed by other

6 neighbors.

7 THE CHAIRMAN: Thank you. Is there

8 anybody else who wishes to speak?

9 MS. HARPE: Maddelena Harpe, 4 Marin

10 Boulevard, Pomona.

11 Just like everybody loves their

12 community, I love my community, I love my

13 environment. We are intelligent human beings, and

14 we really need to conserve our environment, and

15 that is my concern here, the conservation easement.

16 It does not -- encroaching on the conservation

17 easement does not only affect the vicinity, it also

18 affects our community. In 1999, during Hurricane

19 Floyd, I lived on 28 Victor Avenue. My backyard

20 ran along the Minisceongo. It was devastating.

21 Luckily, I had a huge -- well, the Army Corp. of

22 Engineers came and built a retaining wall for my

23 neighbor. Half of his yard got pulled away from

24 the Minisceongo. We were told it was because we

25 needed to conserve, well, especially the trees

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2 regulations prohibiting religious assembly.

3 That is not the case here. Fear of

4 RLUIPA litigation should not be a valid basis for

5 the town to treat a religious organization more

6 favorably than other town residents. The Town

7 cannot allow the construction of a large religious

8 structure within the conservation easement when the

9 Town refused to allow a neighbor to even remove a

10 single dead tree from within the same conservation

11 easement.

12 The Town can ask the applicant to

13 mitigate its proposed use of lot 11 to revise the

14 size and impacts of proposed house of worship so

15 that it fits within the constraints of the existing

16 lot to ensure environmental protections, community

17 character, style, and size of structures.

18 RLUIPA was designed to prevent

19 discrimination against religious institutions, it's

20 not enacted to allow for discrimination against

21 nonreligious residents of a town. RLUIPA does not

22 require a town to discard its well-established

23 community planning tools, bulk tables, land use

24 regulations, and conservation easements just

25 because a religious institution makes an

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2 because trees were starting to be eliminated.

3 We needed the trees because what do the

4 trees do? They absorb the water. If we are going

5 to encroach on the conservation easement, my

6 question is how is that going to affect the

7 waterways, the Minisceongo Creek all the way down

8 to the Hudson River? Because we know the

9 Minisceongo Creek goes all the way down to the

10 Hudson River. That's one question. My other

11 question is who will be living at this home? Is

12 this home going to be vacant when it's not being

13 used? That's my other question. That's all I have

14 for now.

15 THE CHAIRMAN: Does anybody else from

16 the public wish to speak?

17 MS. AGUILAR: Nina Maria Aguilar, 16

18 Harding.

19 I was prepared to speak about the

20 easement and show you guys a map of when this area

21 was subdivided and the builder for the original --

22 for 62 Riverglen, the original builder, just to

23 illustrate, I'm not sure, I know two speakers ago

24 said they had a map, I'm not sure if it's the same,

25 but from what I hear right now, it's more for the

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 2 Planning Board, so I will save that comment for  
 3 that.  
 4 But I did bring something to the Planning  
 5 Board about two months ago that I think the Zoning  
 6 Board should hear, because I still feel like there  
 7 should be a variance sought if that's -- based off  
 8 of what I feel if the applicant purchased it just  
 9 because it was over an acre. Section 167-58, it  
 10 states that the minimum lot area has to be an acre,  
 11 however, the Town of Haverstraw's code, or the code  
 12 book says that the net buildable acreage is defined  
 13 as the total acreage of which a residential and  
 14 nonresidential development can occur, and which is  
 15 the basis for calculating maximum aggregate  
 16 density.  
 17 Net buildable acreage is calculated by  
 18 excluding non-buildable lands, such as wetlands,  
 19 slopes, and easements, so I'm still kind of  
 20 confused of how we get to an acre of property,  
 21 because when you subtract the easement, and I'm  
 22 still not understanding why you get to keep it, but  
 23 if you do get to keep it, they're still sloping, so  
 24 when you exclude any of the slopes, from my  
 25 understanding it's still less than an acre. So

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1 Proceedings  
 2 proposing, what we would like to do is have the  
 3 synagogue more centrally located and for most of  
 4 the congregation it will be a five-minute walk or a  
 5 10-minute walk and there are certainly fewer people  
 6 who will actually be driving and leaving their cars  
 7 there over the Sabbath.  
 8 Thank you.  
 9 THE CHAIRMAN: Thank you. Anybody  
 10 else from the public wish to speak?  
 11 MR. ROZYCKI: My name is George Rozycki,  
 12 4 Stonecrest Drive.  
 13 We're all assuming, right, and I don't  
 14 have a problem with any religion or anything like  
 15 that, but we're all assuming that the congregation  
 16 is not going to grow, okay. People move in, more  
 17 people move in, okay, there's a lot of moving  
 18 around in our neighborhood. The assumption is, for  
 19 me, that it's going to grow. 27, and they're  
 20 telling you that downstairs is not going to be used  
 21 but only by the people that are there at the time,  
 22 but there's nobody saying that that's definitely  
 23 going to happen, okay. And for those people that  
 24 are parking there, originally I think the last time  
 25 they said that there would only be a few cars

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 2 then to me, that negates the whole, you know, I'm  
 3 doing this because it's an acre thing. That's  
 4 just all I have to say for that.  
 5 THE CHAIRMAN: Anybody else from the  
 6 public wish to speak?  
 7 MR. MOSCOVITZ: Chesky Moscovitz. I just  
 8 wanted to quickly respond on the point made earlier  
 9 about the parking spaces currently used where the  
 10 congregation is currently worshipping. It was  
 11 mentioned that there are 27 cars parked there now  
 12 over the Sabbath, Friday night through Saturday  
 13 evening. It just is not correct because the lot  
 14 itself only has 18 or 19 space, I don't know the  
 15 exact, but it's not more than 19, so that's first  
 16 of all.  
 17 And additionally, the primary reason why  
 18 we had like to move the congregation is because the  
 19 proposed location is actually centrally located,  
 20 whereas where we're worshipping is now is far for  
 21 most of the people. Most of the people now have a  
 22 minimum of 10-minute walk, some as much as 20 or  
 23 even 25 minutes. Naturally, there are more people  
 24 who will then drive to the synagogue before the  
 25 Sabbath and leave their cars there, what we're

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 2 there, okay, now if it's going to grow, okay,  
 3 because it seems like more and more houses are  
 4 going up for sale and more and more people are  
 5 moving in, I don't know if they're catholic or  
 6 whatever they are, all right, but I know it's going  
 7 to grow, and it's not going to be enough, 27  
 8 parking lots.  
 9 And the lawyer said that where they were  
 10 meeting now, 10 to 15 cars are normally there for  
 11 50. Now we're talking, okay, so we will take the  
 12 maximum, okay, 100, that means maybe 30, but you're  
 13 going past that, okay. How is that not going to  
 14 be parked on the street? I don't understand. As  
 15 I pass on a Tuesday night I see on both sides of  
 16 the street in one of the houses where it's two ways  
 17 going up and down Riverglen I can barely go by, and  
 18 a lot of times now I look, nobody stops at the stop  
 19 signs, whoever it is, they're not stopping, and  
 20 then they look at you like, you know, what are you  
 21 doing? That's all I have to say. Thank you.  
 22 THE CHAIRMAN: Thank you. Anybody  
 23 else from the public?  
 24 MS. COHEN: Linda Cohen, 2 Stonecrest  
 25 Drive, Thiells.



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2 time in doing when I was in the military is we plan

3 all this out. So the original plan that they came

4 up with makes more sense, we're planning for 200

5 people. We whittled it down, we whittled it down,

6 we whittled it down, but like what some of the

7 other people brought up, it's not going to stay

8 that size. Once I have it, it's going to get

9 bigger, I'm going to get more people in there, and

10 now it's like can I get more variances? Can I get

11 another variance?

12 As I said I'm not going to reiterate

13 everything that's already been said, but, you know,

14 you got the letter of the law, then you got the

15 spirit of the law, and ultimately both Boards are

16 going to have to figure out what is it that we're

17 going to enforce and are we doing it as a sword?

18 Are we doing it as a shield? What are we going to

19 do to make sure we really adhere to everything that

20 needs to be adhered to to make it fair to everyone?

21 So all I ask that, as you go about doing

22 that, let's keep in mind the reality of the

23 situation that nothing is going to stay the same,

24 things are going to grow. What do we already have

25 in place? What have we done in other instances?

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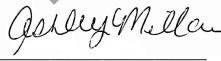
1 C E R T I F I C A T I O N

2

3 Certified to be a true and accurate

4 transcript of the stenographic minutes taken

5 within.

6 

7 \_\_\_\_\_

8 Ashley Millan,

9 Senior Court Reporter

10 Dated: March 25, 2022

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2 And let's make sure that we treat everyone right.

3 That's it. Thank you.

4 THE CHAIRMAN: Anybody else wish to

5 speak? Okay, can I have a motion to hold the

6 Public Hearing over until April 13th, next month.

7 Motion?

8 MR. BARRETT: I make a motion.

9 MR. CLEARY: Second.

10 THE CHAIRMAN: Mr. Barrett made a

11 motion. Seconded by Mr. Cleary. All in favor?

12 (Whereupon, all of the Board Members

13 responded "Aye.")

14 THE CHAIRMAN: Motion carries. Can I

15 have a motion to adjourn the meeting?

16 MR. ALDRIDGE: Motion to adjourn.

17 MR. CLEARY: Second.

18 THE CHAIRMAN: Mr. Aldridge made the

19 motion. Mr. Cleary seconded it. All in favor?{(

20 Whereupon, all of the Board Members

21 responded "Aye.")

22 THE CHAIRMAN: Thank you for your time.

23 (Whereupon, the meeting was adjourned.)

24

25 \* \* \* \*

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1 Errata Sheet

2

3 NAME OF CASE: In Re: TOWN OF HAVERSTRAW BOARD OF ZONING APPEALS MEETING

4 DATE OF DEPOSITION: 03/09/2022

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 \_\_\_\_\_

24

25 \_\_\_\_\_

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