

1

2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

4 -----X

5

6 In the Matter of

7 LUCAS MONDELLO

8 James Street, Marlboro, New York 12542

9 -----X

10 PUBLIC HEARING FOR A 21.5' REAR YARD SETBACK

11 VARIANCE REQUEST

12

13 DATE: May 13, 2021

14 TIME: 7:30 P.M.

15 PLACE: Town of Marlborough

16 Town Hall

17 #21 Milton Turnpike

18 Milton, New York 12547

19 BOARD MEMBERS: WILLIAM GIAMETTA, CHAIRMAN

20 LENNY CONN, absent

21 JEFF MEKEEL

22 DAVE ZAMBITO

23 GEORGE SALINOVICH

24 ALSO PRESENT: CARMEN MESSINA, Land

25 Surveyor, Professional Engineer

26 IAN S. MacDONALD, ESQ.

27 PENNY E. CASHMAN,

28 Zoning Board Secretary

29

30

31 -----X

32 LISA MARIE ROSSO

33 140 Mahoney Road

34 Milton, New York 12547

35 (845) 674-3937

1 WORKSHOP - MONDELLO

2 CHAIRMAN GIAMETTA: Welcome to

3 the, May 13th meeting of the Town of

4 Marlborough Zoning Board of Appeals.

5 Please join me in the pledge to the

6 flag.

7 (Pledge of Allegiance)

8 CHAIRMAN GIAMETTA: Thank you very

9 much, and welcome to all. In addition

10 to our Board members, we have  
11 consulting attorney, Ian MacDonald,  
12 here joining us. Welcome Mr.  
13 MacDonald. Without further ado, last  
14 month's meeting generated minutes. And  
15 Board members, did you have a chance to  
16 review those, and do we need any  
17 changes brought up regarding them? If  
18 there is anything that needs to be  
19 modified, please let us know.

20 MR. MEKEEL: I make a motion to  
21 accept the minutes from the last  
22 meeting.

23 MR. ZAMBITO: I will second.

24 CHAIRMAN GIAMETTA: Minutes from  
25 the last meeting approved and accepted.

### 3

1 WORKSHOP - MONDELLO  
2 Thank you very much. We have three  
3 items on the agenda this evening. And  
4 the first one is a public hearing and  
5 it's for Lucas Mondello. I wish to  
6 disclose that Mr. Mondello's  
7 professional engineer is doing some  
8 personal work for me, separate and  
9 apart from the Mondello case, and I  
10 want everyone to know that I can be  
11 fair and impartial regarding Mr.  
12 Messina representing Mondello and has  
13 no interference with my case or my case  
14 interfering with his.

15 So, Mr. Messina, if you would just  
16 summarize what you wish to ask of the  
17 Board, please.

18 MR. MESSINA: Yes. For the  
19 record, Carmen Messina, surveyor for  
20 the project. We are currently before

21 the Marlboro Planning Board for a lot  
22 line revision, because the house on --  
23 and the pool area of lot number two is  
24 encroaching on lot number one, and lot  
25 number one desires to give them some

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1 WORKSHOP - MONDELLO  
2 land so that the building will be on  
3 their own property. We have changed  
4 the sideline and managed to meet the  
5 zoning requirements for 35 feet for the  
6 sideline, the northwest sideline, but  
7 we weren't able to get the required 50  
8 feet for the rear sideline. We have  
9 increased the lot line from originally  
10 lot number two from 21.8 feet to 28.5,  
11 but that leaves us with a shortage  
12 of -- shortage of 21.5, which we are  
13 asking for a variance for that amount  
14 for a rear setback.

15 CHAIRMAN GIAMETTA: Okay. You  
16 have advertised and publicized that in  
17 the local newspaper; have you?

18 MR. MESSINA: We have.

19 CHAIRMAN GIAMETTA: Okay. We're  
20 going to ask that that notice be read.  
21 Would one of the Board members read the  
22 legal notice, please?

23 MR. ZAMBITO: Please take notice  
24 that a public hearing will be held by  
25 the Town of Marlborough Zoning Board of

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1 WORKSHOP - MONDELLO  
2 Appeals, ZBA, at the Town Hall, #21  
3 Milton Turnpike, Milton, New York, on

4 May 13, 2021 at 7:00 P.M. or soon  
5 after -- thereafter as may be heard.  
6 Owner/applicant, Lucas Mondello is  
7 seeking relief from the Town of  
8 Marlborough Code 155, Attachment 2,  
9 Schedule 1, by way of a 21.5 feet rear  
10 yard setback area variance. Tax  
11 Parcel: Section 109.1, Block 4, one  
12 Lot 65 and 67 (R1 Zone).  
13 Any interested parties, either for  
14 or against this application will have  
15 the opportunity to be heard at this  
16 time. William Giametta, Chairman, Town  
17 of Marlborough Zoning Board of Appeals.  
18 CHAIRMAN GIAMETTA: Thank you, Mr.  
19 Zambito. That notice has been mailed  
20 out; correct?  
21 MR. MESSINA: Mailed out 22 and 15  
22 returned.  
23 CHAIRMAN GIAMETTA: How many, Ms.  
24 Cashman?  
25 MS. CASHMAN: Twenty-two went out,

6

1 WORKSHOP - MONDELLO  
2 15 cards back signed for.  
3 CHAIRMAN GIAMETTA: Twenty-two  
4 mailings out, 15 returned, green cards  
5 signed. At this time, the Board has  
6 the case before us. Do we have any  
7 questions about this proposal,  
8 gentlemen?  
9 MR. ZAMBITO: Pretty  
10 straightforward.  
11 MR. MEKEEL: No.  
12 MR. SALINOVICH: No.  
13 CHAIRMAN GIAMETTA: Okay. Us, as  
14 the Board, have no questions about the

15 matter before us. Does the public wish  
16 to contribute toward the Mondello case,  
17 either for or against it? Anyone in  
18 the public wish to speak?

19 (No audible response)

20 CHAIRMAN GIAMETTA: I see no  
21 indication. So, therefore, I ask for a  
22 motion to close the public hearing.

23 MR. ZAMBITO: I'll make a motion  
24 to close the public hearing.

25 CHAIRMAN GIAMETTA: A second?

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1 WORKSHOP - MONDELLO

2 MR. SALINOVICH: I'll second.

3 CHAIRMAN GIAMETTA: All in favor?

4 MR. ZAMBITO: Aye.

5 MR. MEKEEL: Aye.

6 MR. SALINOVICH: Aye.

7 CHAIRMAN GIAMETTA: Public hearing  
8 is closed. We have now come to a point  
9 where we have to consider the  
10 applicant's request. Would someone  
11 like to make a motion to either approve  
12 it or deny it?

13 MR. ZAMBITO: I will make a motion  
14 to approve the rear yard setback area  
15 variance to relieve the Town Code 155,  
16 Attachment 2, Schedule 1 by way of 21.5  
17 feet.

18 CHAIRMAN GIAMETTA: A second?

19 MR. MEKEEL: I will second that  
20 motion.

21 CHAIRMAN GIAMETTA: All in favor  
22 of that?

23 MR. SALINOVICH: Aye.

24 MR. ZAMBITO: Aye.

25 MR. MEKEEL: Aye.

1           WORKSHOP - MONDELLO  
2           CHAIRMAN GIAMETTA: And aye.  
3       Variance request is passed.  
4           MR. MESSINA: Thank you.  
5           CHAIRMAN GIAMETTA: You're  
6       welcome. And thank you, Board members.  
7       We've completed the first item on the  
8       agenda.

9  
10       (Whereupon, at 7:08 P.M., the  
11       Hearing was concluded.)

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13           ?   ?   ?   ?

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2           C E R T I F I C A T E

3

4       STATE OF NEW YORK    )  
                              : SS.:  
5       COUNTY OF ULSTER    )

6

7       I, LISA ROSSO, a Notary Public for and  
8       within the State of New York, do hereby

9 certify:  
10 That the witness whose examination is  
11 hereinbefore set forth was duly sworn and  
12 that such examination is a true record of  
13 the testimony given by that witness.  
14 I further certify that I am not related  
15 to any of the parties to this action by  
16 blood or by marriage and that I am in no way  
17 interested in the outcome of this matter.  
18 IN WITNESS WHEREOF, I have hereunto set  
19 my hand this 4th day of June 2021.

20

21

22 \_\_\_\_\_  
LISA M. ROSSO

23

24

25

1

2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

-----X

4

5 In the Matter of

6 MICHAEL GWILLIAM

7 512 Milton Turnpike, Milton, New York 12547

8 -----X

9 WORKSHOP MEETING FOR A FRONT YARD AREA  
10 VARIANCE REQUEST FOR AN EXISTING ACCESSORY  
STRUCTURE

11 DATE: May 13, 2021

12 TIME: 7:08 P.M.

13 PLACE: Town of Marlborough  
Town Hall  
14 #21 Milton Turnpike  
Milton, New York 12547

15 BOARD MEMBERS: WILLIAM GIAMETTA, CHAIRMAN

16 LENNY CONN, absent

17 JEFF MEKEEL

DAVE ZAMBITO

18 GEORGE SALINOVICH

19 ALSO PRESENT: MICHAEL GWILLIAM

RAYMOND WELCH

20 PENNY E. CASHMAN,  
21 Zoning Board Secretary  
22 IAN S. MacDONALD, ESQ.

23 -----X  
24 LISA MARIE ROSSO  
25 140 Mahoney Road  
Milton, New York 12547  
(845) 674-3937

2

1 WORKSHOP - GWILLIAM  
2 CHAIRMAN GIAMETTA: The second  
3 matter on our agenda is Gwilliam, and  
4 please, whomever else is with Mr.  
5 Gwilliam, when you're ready, loud and  
6 clear, brief explanation of what you  
7 would like us to consider, and what you  
8 would like to do.

9 MR. WELCH: So, we were before  
10 this Board last month, and we were  
11 given a continuation. The Board asked  
12 for a few items from us. So, last week  
13 we delivered those items to Penny  
14 Cashman. They included a letter from  
15 Tom Schroeder, the Town's historian,  
16 who actually has been out to the  
17 property at 512 Milton Turnpike, looked  
18 at it, and done some of his own  
19 research. I believe you all have a  
20 copy of the letter, which dates the  
21 house back to 1793.

22 In addition, we had discussed some  
23 letters of support from neighbors who  
24 are in support of keeping this house  
25 with the variance. We sent six of

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1 WORKSHOP - GWILLIAM  
2 those letters to the Board as well,  
3 which I think we distributed. We like  
4 to point out that the writer of one of



5 the letters is here if the Board has  
6 any questions for them. However, at  
7 this point, we are requesting a  
8 continuation of our workshop status.  
9 There is something else we'd like to  
10 explore, and if the Board agrees, we  
11 would like to take a month to do that  
12 and come back finally in the June  
13 meeting and see how to go forward.

14 CHAIRMAN GIAMETTA: Okay. So,  
15 you're asking for an extension,  
16 essentially?

17 MR. WELCH: Well, for a  
18 continuation of this workshop status  
19 until the next Board meeting.

20 CHAIRMAN GIAMETTA: Now, one thing  
21 I would like to ask Attorney MacDonald,  
22 and to point out some specifics as  
23 you're extending your workshop to  
24 consider, and that's the balancing  
25 test. Mr. MacDonald, would you kindly

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1 WORKSHOP - GWILLIAM  
2 paraphrase that or bring up the high  
3 points of the balancing test?

4 MR. MacDONALD: With any  
5 application for an area variance, the  
6 standard that the zoning board has to  
7 apply is a balancing test. The Board  
8 is required to weigh the benefit to the  
9 applicant, the property owner, if the  
10 variance is granted against the  
11 detriment to the health, safety, and  
12 welfare of the community. And in  
13 considering that balancing test, or  
14 applying the balancing test, the Board  
15 is required to consider five factors,

16 and these are statutory. This is from  
17 267-b of the Town Law. It's also in  
18 the Town of Marlboro Code -- 267-b of  
19 the New York State Town Law.

20 And so the five factors are,  
21 whether an undesirable change will be  
22 produced in the character of the  
23 neighborhood, or a detriment to nearby  
24 properties will be created by the  
25 granting of the area variance. Two,

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1 WORKSHOP - GWILLIAM  
2 whether the benefit sought by the  
3 applicant can be achieved by some  
4 method feasible for the applicant to  
5 pursue, other than an area variance.  
6 Three, whether the requested area  
7 variance is substantial. Four, whether  
8 the proposed variance will have an  
9 adverse effect or impact on the  
10 physical or environmental conditions in  
11 the neighborhood or district. And  
12 five, whether the alleged difficulty  
13 was self-created. And the statute  
14 notes that the fifth factor, whether  
15 this condition is self-created, shall  
16 be relevant to the decision of the  
17 Board, but not necessarily preclude the  
18 granting of an area variance.

19 So, that's the test that the Board  
20 is to apply for any request for an area  
21 variance. It's the balancing benefit  
22 to the applicant against detriment to  
23 the community, and it's thrown in there  
24 for consideration are those five  
25 factors.

1           WORKSHOP - GWILLIAM

2           MR. WELCH: Could I ask for  
3 clarification on one of those?

4           MR. MacDONALD: Sure.

5           MR. WELCH: So, on the factor  
6 where you talk about detriment to the  
7 community, does the Board also consider  
8 benefit to the community?

9           MR. MacDONALD: Well, that's the  
10 balancing test. So -- well, the  
11 benefit to the applicant weighed  
12 against the detriment to the community.

13          MR. WELCH: Right. But if the  
14 variance actually provides benefit to  
15 the community, that's also a  
16 consideration?

17          MR. MacDONALD: Well, it could go  
18 into that, yes. Certainly, as the  
19 applicant, I would advise that, if you  
20 think there is a benefit to the  
21 community, to point that out.

22          MR. WELCH: Okay.

23          MR. MacDONALD: And that goes into  
24 two of the factors that the Board is  
25 suppose to consider. The first and the

1           WORKSHOP - GWILLIAM

2 fourth, whether there will be an  
3 undesirable change in the character of  
4 the neighborhood. Obviously, if you  
5 think it can benefit to the community  
6 as a whole would weigh against that  
7 consideration.

8           MR. WELCH: Uh-huh.

9           MR. MacDONALD: And number four,

10 whether the proposed variance will have  
11 an adverse effect or impact on the  
12 physical or environmental conditions in  
13 the neighborhood or district, very  
14 similar to the first one. They both  
15 basically go to what your point is, I  
16 think, what's the impact of granting  
17 the variance on the neighborhood or the  
18 community in general.

19 MR. ZAMBITO: All five statements  
20 you make, if one of them is  
21 questionable, and the other four on the  
22 good side, does that make a difference?

23 MR. MacDONALD: It's up to the  
24 Board. Again, it's the five factors.

25 MR. ZAMBITO: So, it's up to the

8

1 WORKSHOP - GWILLIAM  
2 Board? The final decision is up to the  
3 Board?

4 MR. MacDONALD: Right.

5 MR. ZAMBITO: Okay. That's all I  
6 need to know.

7 MR. MacDONALD: The five factors  
8 that -- the Board is required to  
9 consider the five factors.

10 MR. ZAMBITO: I can consider all  
11 five right now if you want me to answer  
12 all five of them. We paid a visit to  
13 the site, I am ready to answer all five  
14 of them. One is questionable. Number  
15 two, I think there is a reasonable --

16 CHAIRMAN GIAMETTA: Well, at this  
17 time, we aren't to that point in  
18 answering those questions.

19 MR. ZAMBITO: Okay.

20 CHAIRMAN GIAMETTA: I believe the

21 applicants would like to investigate  
22 somewhat further and come back to us;  
23 is that correct?  
24 MR. WELCH: Based on what Mr.  
25 Zambito said, if the Board is ready to

9

1 WORKSHOP - GWILLIAM  
2 consider this, we're ready to respond.  
3 MR. ZAMBITO: I'm not saying we're  
4 ready to consider. I'm saying me,  
5 personally, I could go over those five  
6 questions right now and answer them  
7 what I feel. That doesn't mean, you  
8 know --

9 MR. WELCH: Okay.

10 MR. GWILLIAM: We would like to  
11 make sure that we cross all of the T's  
12 and dotted all of the I's, and looked  
13 at every possibility, and we need  
14 another month to do that.

15 CHAIRMAN GIAMETTA: Okay. We're  
16 going to grant you an extension, a  
17 continuation of the workshop.

18 MR. WELCH: Thank you.

19 CHAIRMAN GIAMETTA: And you want  
20 to come back to us when you're ready;  
21 correct?

22 MR. WELCH: So, we plan on coming  
23 back in June.

24 MS. CASHMAN: So we will put you  
25 on for June 10th for a continuation.

10

1 WORKSHOP - GWILLIAM

2 MR. WELCH: We are just asking for  
3 one meeting continuation. We will

4 explore what we want to, and if we  
5 don't find out what we expect, or what  
6 happens, we will put the initial  
7 request before the Board.  
8 CHAIRMAN GIAMETTA: Anything wrong  
9 with that?  
10 MR. MEKEEL: No.  
11 CHAIRMAN GIAMETTA: You're welcome  
12 to do that.  
13 MR. WELCH: Thank you very much.  
14 CHAIRMAN GIAMETTA: Just  
15 coordinate it with Ms. Cashman, please.  
16 MR. WELCH: Absolutely.  
17 CHAIRMAN GIAMETTA: Anything  
18 further?  
19 MR. WELCH: Unless you have  
20 questions for us.  
21 CHAIRMAN GIAMETTA: Thank you,  
22 gentlemen.  
23 (Whereupon, at 7:18 P.M., the  
24 Hearing was concluded.)  
25 ? ? ? ?

11

2 C E R T I F I C A T E  
3  
4 STATE OF NEW YORK )  
: SS.:  
5 COUNTY OF ULSTER )  
6  
7 I, LISA M. ROSSO, a Notary Public for  
8 and within the State of New York, do hereby  
9 certify:  
10 That the witness whose examination is  
11 hereinbefore set forth was duly sworn and  
12 that such examination is a true record of  
13 the testimony given by that witness.  
14 I further certify that I am not related

15 to any of the parties to this action by  
16 blood or by marriage and that I am in no way  
17 interested in the outcome of this matter.  
18 IN WITNESS WHEREOF, I have hereunto set  
19 my hand this 4th day of June 2021.

20

21

22 \_\_\_\_\_  
LISA M. ROSSO

23

24

25

1

2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

-----X

4

5 In the Matter of

6 NICHOLAS GALELLA

7 17 Sunrise Drive, Milton, New York 12547

8 -----X

WORKSHOP MEETING FOR A FRONT YARD AREA  
9 VARIANCE REQUEST TO INSTALL GROUND MOUNT  
SOLAR PANELS

10

11 DATE: May 13, 2021

12 TIME: 7:18 P.M.

13 PLACE: Town of Marlborough

Town Hall

14 #21 Milton Turnpike

Milton, New York 12547

15

BOARD MEMBERS: WILLIAM GIAMETTA, CHAIRMAN

16 LENNY CONN, absent

JEFF MEKEEL

17 DAVE ZAMBITO

GEORGE SALINOVICH

18

19 ALSO PRESENT: NICHOLAS GALELLA

JAMIE GLOVER

20 PENNY E. CASHMAN,

Zoning Board Secretary

21 IAN S. MacDONALD, ESQ.

22

23

-----X

24 LISA MARIE ROSSO

140 Mahoney Road

25 Milton, New York 12547

(845) 674-3937

1           WORKSHOP - GALELLA

2           CHAIRMAN GIAMETTA: That brings us  
3 to our third and final item on the  
4 agenda this evening. If Mr. Nicholas  
5 Galella is here, welcome. Thank you.  
6 Would you please summarize what your  
7 request is for the Board?

8           MR. GALELLA: Sure. My name is  
9 Nicholas Galella --

10          CHAIRMAN GIAMETTA: Loud and clear  
11 for the court reporter.

12          MR. GALELLA: Nicholas Galella. I  
13 live at 17 Sunrise Drive, Milton. I am  
14 asking for a variance for solar panels  
15 that have been installed in front of  
16 the -- front setback. So it will be a  
17 variance to keep the panels where they  
18 are today. Next to me is Jamie Glover,  
19 he is the installer. We have worked  
20 together on the project for over a  
21 year. And as you know, you have been  
22 to my house, and panels have been  
23 installed, and I just want to briefly  
24 read a statement.

25          CHAIRMAN GIAMETTA: Loud and

1           WORKSHOP - GALELLA

2 clear, please.

3           MR. GALELLA: Members of the  
4 Board, I'm asking for a variance to  
5 keep the current location of the ground  
6 mount solar panel array. My property  
7 is, although large, is problematic in  
8 placement of the system. My house sits  
9 back along a private road and  
10 visibility is minimal. My front yard  
11 happens to be my neighbor's rear yard,



12 where typically -- typical placement is  
13 allowed. I believe as renewable energy  
14 becomes more and more mainstream, this  
15 Board must see more applicants before  
16 it. Although the code is written in  
17 such a way, it's not permitted beyond  
18 the front of the house, it's important  
19 that each applicant is judged on a case  
20 by case basis. No two applicants are  
21 the same. I believe this layout will  
22 not have a negative impact on our  
23 properties. In closing, I'd just like  
24 to go over the aerial maps showing this  
25 location again. I have the whole site

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1 WORKSHOP - GALELLA  
2 here.  
3 CHAIRMAN GIAMETTA: Can you bring  
4 it up, please? You want to point out  
5 where the panels are, sir?  
6 MR. GLOVER: Sure. That's the  
7 main house here. That the field right  
8 here, the orchard. This is a no  
9 install zone area here.  
10 CHAIRMAN GIAMETTA: Why is that a  
11 no install area?  
12 MR. GLOVER: It's an orchard. You  
13 would have to cut down trees, and take  
14 away from the environment by cutting  
15 out these trees. The proposed location  
16 is just adjacent to the existing  
17 garages. Here is the neighbor's  
18 property that Mr. Galella identified.  
19 Here is the front of the property, here  
20 is the back. It has minimal  
21 visibility, it has trees and this line  
22 here represents a stonewall against  
23 this line. So, if you look at the

24 footprint, there really aren't a lot of  
25 options for that. You have a pond

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1 WORKSHOP - GALELLA  
2 here, and you've got the driveway, you  
3 can't put the panels where the pond is.  
4 So, we installed them here, and at this  
5 at this location, which, in the eyes of  
6 the Town, is in front of the property.  
7 We recognize that, and that is why  
8 we're asking for this variance. It has  
9 no impact on the neighbors.

10 MR. GALELLA: In addition, I have  
11 two letters from the neighbors on the  
12 side of the lot line.

13 MR. MEKEEL: Mr. -- I'm sorry,  
14 what's your last name?

15 MR. GLOVER: Glover.

16 MR. MEKEEL: Mr. Glover, how long  
17 have you been installing panels?

18 MR. GLOVER: Eleven years, sir.

19 MR. MEKEEL: Eleven years. How  
20 many times have you installed panels  
21 without a building permit?

22 MR. GLOVER: The answer to your  
23 question is we should not have  
24 installed them. You're absolutely  
25 right. That was a mistake. We did

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1 WORKSHOP - GALELLA  
2 file a permit. So it's not that we did  
3 it with the idea of not filing the  
4 permit, but I would say we put the cart  
5 before the horse, and that was a  
6 mistake, and I take blame for that.  
7 During this COVID period, we were going  
8 back and forth. There was an existing  
9 system up there, we weren't sure about

10 the requirements. There was some  
11 dialogue, we submitted the permit.  
12 Unfortunately, as I said, we put the  
13 cart before the horse, and I take blame  
14 for that.

15 MR. MEKEEL: So, we visited the  
16 property, we were there, and when you  
17 get to the back yard of your property  
18 on the left-hand side, right in the  
19 back yard, how come you didn't install  
20 panels there?

21 MR. GALELLA: There was concern --  
22 let me point it out on the map.

23 MR. MEKEEL: So, I think your home  
24 is right here?

25 MR. GALELLA: This is the house.

7

1 WORKSHOP - GALELLA

2 (Whereupon, an off-the-record  
3 discussion was held.)

4 MR. GALELLA: To answer the  
5 question, the alternate zone location  
6 to the opposite side of the garage,  
7 where it would have been permissible,  
8 was that it was close to an existing  
9 orchard, a grapevine orchard, and the  
10 machinery tractors come through with  
11 mowers and sprayers, and it was just a  
12 concern that the equipment would be  
13 damaged. And there also was a  
14 productivity issue, because the garage  
15 could be at a higher elevation than the  
16 array. So, not all of the array, but a  
17 portion of the solar array would be  
18 clipped by the shadow of the garage.  
19 If you look at the length of the array,  
20 you have a footprint.

21 MR. MEKEEL: How long is the  
22 array?

23 MR. GLOVER: Sixty feet.  
24 MR. MEKEEL: And from the orchard  
25 to the garage, how many feet do you

8

1 WORKSHOP - GALELLA  
2 have?  
3 MR. GALELLA: It's probably a  
4 little less than sixty. But you need,  
5 I think you require 20, 25 feet of  
6 machinery to turn it around.  
7 MR. MEKEEL: But from the garage  
8 to the orchard, how far are you; you're  
9 more than 60?

10 MR. GLOVER: I think it was 70  
11 feet from the garage to the orchard.  
12 You have a photo of it. Do you want  
13 the letters?

14 CHAIRMAN GIAMETTA: Not yet.  
15 We're still discussing the points here  
16 you're bringing up.

17 MR. GLOVER: That's a Google area  
18 map of the section we're talking about.  
19 This array is actually further off.

20 (Whereupon, an off-the-record  
21 discussion was held.)

22 CHAIRMAN GIAMETTA: Like the  
23 previous case, there is a balancing  
24 test issue, and concern for the Board  
25 to look at. And --

9

1 WORKSHOP - GALELLA  
2 MR. GLOVER: Just some thoughts on  
3 that, Mr. MacDonald. So, I believe you  
4 talked about the benefits of the  
5 community, and not taking away the  
6 benefits of the homeowner. So, this is  
7 something that I profess, I'm not a  
8 perfect human being, I apologize for

9 that, but I do believe in environment.  
10 And I believe in the environment for  
11 our children, and our children's  
12 children. Solar systems are an eco-  
13 friendly, green, carbon emission saving  
14 process, reduces utility usage, which  
15 not only helps Mr. Galella, but also  
16 helps us in the community. How does it  
17 help us? Well, there is less carbon  
18 emissions from panels being installed  
19 here. We've all seen what global  
20 warning does. It's a direct  
21 relationship between carbon footprint  
22 and global warming.  
23 CHAIRMAN GIAMETTA: Not to  
24 interrupt you, I tell you what, we're  
25 talking about the location of it, not

10

1 WORKSHOP - GALELLA  
2 the use of it.  
3 MR. ZAMBITO: We agree with you a  
4 hundred percent on that.  
5 MR. GALELLA: They're concerned  
6 about the alternate --  
7 MR. SALINOVICH: The location.  
8 MR. ZAMBITO: We're concerned  
9 about the next 30 people that come in  
10 here and want to put solar in the front  
11 yard. We have to protect ourselves  
12 and, you know, our standards, to see  
13 what we have to do. This is why Ian is  
14 with us tonight, because we want to  
15 make sure we're not doing anything  
16 wrong.  
17 MR. GLOVER: Sure.  
18 MR. ZAMBITO: And we understand  
19 your thing, we know the environment and  
20 whatnot, we agree with that. What we

21 don't agree with is, what we're doing  
22 right now should have been done before  
23 the installation. And if we have to go  
24 over the five points like Ian mentioned  
25 before, unfortunately, it's not going

11

1 WORKSHOP - GALELLA  
2 to work.  
3 MR. GALELLA: I believe it's as  
4 addressed in my letter, I believe each  
5 case, you may see --  
6 MR. ZAMBITO: I do.  
7 MR. GALELLA: -- other applicants  
8 because of this restriction, they want  
9 to maximize the solar usage, they want  
10 to get as much as they can. So bigger  
11 systems you may see. So, on a case by  
12 case basis, I am not on a Town road. I  
13 am 300 feet off of a private road. My  
14 two neighbors do not object to the  
15 location of this system where it is  
16 now. I honestly don't object to it.  
17 And it seems like it's in our hands,  
18 and I realize you have a job to do, as  
19 well as a Board to keep harmony of the  
20 community, and that is why this Board  
21 is established. But my strongest point  
22 would be that it is a case by case  
23 basis. Panels are where they are now.  
24 There seems to be -- there is no  
25 objection so far, other than the Board

12

1 WORKSHOP - GALELLA  
2 here tonight. If I had to go do it  
3 again, obviously, I would do it  
4 different. I believe Mr. Mekeel asked  
5 me the first time we were here. It did  
6 get lost in translation through the

7 COVID. We did have a shutdown. I was  
8 working with Jamie, along with the  
9 system, because I am a contractor, so  
10 we kind of put up two things together.  
11 And I am like, it can't be a problem, I  
12 am so far back. I am in an AG  
13 district. And I felt what's the harm.  
14 And I had no intentions of not getting  
15 a permit. I was always going to get a  
16 permit. It was just the process of  
17 getting it in the right manner of time.  
18 Onto some other point, I, at some point  
19 would like to put a barn in the front  
20 of my -- in the field, but I can't do  
21 that now because I realize it's in  
22 front of my house. It's an accessory  
23 building. But even though I'm in Ag  
24 district, I'm restricted even to do  
25 that. So, I have 20 acres of land, and

13

1 WORKSHOP - GALELLA  
2 as this map shows, it's still  
3 problematic to get something in there.  
4 CHAIRMAN GIAMETTA: Let me ask,  
5 Mr. MacDonald, do you have any comments  
6 regarding --  
7 MR. MacDONALD: No, it's -- I  
8 mean, this is up to the Board. This is  
9 on for a workshop.  
10 CHAIRMAN GIAMETTA: Workshop.  
11 MR. MacDONALD: Just, you know,  
12 considering the application, there is  
13 some back and forth between the Board  
14 and the applicant, so, you know, I  
15 guess it's up to applicant whether he  
16 wants to submit the application which  
17 would be considered by the Board, the  
18 public hearing, and determination by  
19 the Board.

20 CHAIRMAN GIAMETTA: Mr.  
21 Salinovich, is there something that you  
22 see?  
23 MR. SALINOVICH: It's how we do  
24 the front setbacks.  
25 CHAIRMAN GIAMETTA: How we do the

14

1 WORKSHOP - GALELLA  
2 front setback, the Town road --  
3 MR. SALINOVICH: If Mr. Galella  
4 came down and got a building permit  
5 like he's supposed to, Tommy would've  
6 told him he can't put it there. It's  
7 as simple as that.  
8 CHAIRMAN GIAMETTA: Where is the  
9 Town road?  
10 MR. GLOVER: This is the  
11 cul-de-sac right here.  
12 CHAIRMAN GIAMETTA: This is a  
13 private road?  
14 MR. GLOVER: The private road is  
15 here (indicating).  
16 CHAIRMAN GIAMETTA: That's the  
17 private road?  
18 MR. GLOVER: Yes.  
19 CHAIRMAN GIAMETTA: What's that,  
20 Jeff?  
21 MR. MEKEEL: I'm trying to think  
22 if there is some other way, but with  
23 Old Indian --  
24 MR. ZAMBITO: I've been thinking  
25 about it for a month.

15

1 WORKSHOP - GALELLA  
2 CHAIRMAN GIAMETTA: So, Old Indian  
3 is a Town road, obviously.  
4 MR. MEKEEL: A Town road.  
5 CHAIRMAN GIAMETTA: Sunrise is a



6 private road; correct? In determining  
7 the front yard of a property, Mr.  
8 Salinovich, former building inspector  
9 for the Town of Marlboro, is it true  
10 you go by a main road?

11 MR. SALINOVICH: Yes. The front  
12 setback goes by the road. If you're on  
13 a corner, it's the wider of two roads,  
14 but it's not on a corner.

15 MR. ZAMBITO: So, what Town road  
16 is his front yard; Old Indian?

17 MR. SALINOVICH: It's not on a  
18 Town road. It's private.

19 MR. ZAMBITO: How do you determine  
20 if we are facing Old Indian, or are we  
21 facing Ridge?

22 CHAIRMAN GIAMETTA: Ridge Road is  
23 what, behind you?

24 MR. GLOVER: Yeah.

25 MR. ZAMBITO: If Ridge Road was

16

1 WORKSHOP - GALELLA  
2 considered his front yard, then he  
3 would be fine.

4 MR. SALINOVICH: I think we  
5 changed that the private road is going  
6 to be front yard setback.

7 MR. MEKEEL: Private road would be  
8 the front yard setback.

9 MR. GALELLA: Let me help you out.  
10 I built this road, and I built the  
11 three houses on it, I'm pretty familiar  
12 with it. Generally, four houses are  
13 allowed on a Town road, a private road  
14 you're allowed up to six, as long as  
15 the other two face --

16 MR. SALINOVICH: I think they  
17 changed it. I think you can put as

18 many homes as you want on a private  
19 road.  
20 CHAIRMAN GIAMETTA: But that's not  
21 the issue. The issue is which road  
22 determines your front yard.  
23 MR. MacDONALD: The building  
24 inspector/code enforcer made a  
25 determination, I think that these

17

1 WORKSHOP - GALELLA  
2 panels are in the front yard.  
3 MR. ZAMBITO: Correct.  
4 MR. MacDONALD: It's something to  
5 consider. That would be a different  
6 application. You're talking about an  
7 application for an area variance based  
8 on the determination made by the  
9 building inspector that these panels  
10 are in the front yard. You could bring  
11 an application forward for  
12 interpretation of the zoning code to,  
13 you know, to essentially appeal that  
14 determination by the building inspector  
15 that this is a front yard, asking the  
16 Board to interpret zoning law as to  
17 whether or not that should be  
18 considered the front yard or side yard  
19 or back yard, based on the facts that  
20 you're discussing.

21 MR. GLOVER: I like that idea.

22 CHAIRMAN GIAMETTA: Mr. Zambito  
23 stated that there is a road behind you.

24 MR. GLOVER: That's Ridge Road.  
25 So, back to my point is, if two of

18

1 WORKSHOP - GALELLA  
2 those lots front on existing Town road,  
3 you're allowed up to six, and maybe

4 more as George was saying.

5 MR. MEKEEL: But this lot doesn't

6 border Ridge?

7 MR. GALELLA: It does border

8 Ridge.

9 MR. MEKEEL: Oh, it does border

10 Ridge?

11 MR. GALELLA: Yes, it goes down

12 through here (indicating).

13 MR. MEKEEL: Down through here it

14 borders Ridge, and then over here is

15 Old Indian.

16 CHAIRMAN GIAMETTA: So your

17 property borders onto Ridge Road, is

18 that what you're saying?

19 MR. GALELLA: Yes.

20 MR. ZAMBITO: His private road

21 comes out on Old Indian.

22 MR. GALELLA: My address is 19

23 Sunrise Drive.

24 MR. MEKEEL: What's your address?

25 MR. GALELLA: 19 Sunrise Drive --

19

1 WORKSHOP - GALELLA

2 I mean, 17, excuse me.

3 MR. MEKEEL: Right, 17.

4 MR. GALELLA: I think the point

5 here is, I understand your concern

6 about other applicants coming in, but

7 if you put them on a case by case

8 basis, if they're not on a private

9 road, if they are visible to public

10 traffic and pedestrians, you have a

11 clear decision between theirs and mine.

12 Mine is fairly remote. I mean, if you

13 are on a cul-de-sac, they're almost

14 difficult to see from the road, so --

15 CHAIRMAN GIAMETTA: The

16 determination has been made by the code

17 officer, building inspector, by him  
18 that they're in the front yard.  
19 MR. GALELLA: Right. He has to  
20 say that, and that's why I'm here  
21 before you to grant a variance.  
22 CHAIRMAN GIAMETTA: To ask for a  
23 variance.  
24 MR. GALELLA: Exactly. I mean ask  
25 for a variance.

20

1 WORKSHOP - GALELLA  
2 CHAIRMAN GIAMETTA: If you want to  
3 go on those lines as Mr. MacDonald  
4 stated, you can. However, if the fact  
5 that Ridge Road is in the picture, you  
6 may want to know more about that.  
7 MR. GALELLA: I think, like you  
8 said, it's going to --  
9 CHAIRMAN GIAMETTA: Anything more  
10 to that?  
11 MR. GALELLA: It's a balancing  
12 scale either way.  
13 MR. GLOVER: Is there any other  
14 issues created by doing that?  
15 MR. MEKEEL: There could be an  
16 issue with the garage.  
17 MR. ZAMBITO: There is.  
18 MR. GLOVER: Isn't it a  
19 certificate of building and approved  
20 already? So, would that be  
21 grandfathered in, if you have a CO on  
22 the garage of the house?  
23 CHAIRMAN GIAMETTA: The garage  
24 you're referring to is what, on the  
25 side of your house? Where is the

21

1 WORKSHOP - GALELLA  
2 garage?

3 MR. MEKEEL: That would be the  
4 garage.  
5 CHAIRMAN GIAMETTA: It's on the  
6 side right now.  
7 MR. GALELLA: So, if you went with  
8 that, Ridge Road, this part right here.  
9 MR. ZAMBITO: It would create  
10 another issue.  
11 CHAIRMAN GIAMETTA: Well, Mr.  
12 Salinovich is reviewing the code.  
13 MR. GALELLA: May I read the  
14 letter that I sent to the neighbors?  
15 CHAIRMAN GIAMETTA: Mr. MacDonald,  
16 is it appropriate?  
17 MR. MacDONALD: He can if he  
18 wants.  
19 CHAIRMAN GIAMETTA: Go ahead, read  
20 one.  
21 MR. GALELLA: I kept it simple.  
22 It says, I, underline, and one is Mr.  
23 Gairnot, and one is Mr. Gervais.  
24 Gairnot is G-A-I-R-N-O-T, and Gervais  
25 is G-E-R-V-A-I-S, have no objection to

22

1 WORKSHOP - GALELLA  
2 the current location of the solar  
3 panels on Nicholas Galella's property.  
4 It's just one sentence, and then it's  
5 signed.  
6 CHAIRMAN GIAMETTA: Do you have  
7 another letter also?  
8 MR. GALELLA: I have two.  
9 CHAIRMAN GIAMETTA: Okay.  
10 MR. GALELLA: But they say the  
11 same.  
12 CHAIRMAN GIAMETTA: Same wording,  
13 different name?  
14 MR. GALELLA: Both signed.

15 CHAIRMAN GIAMETTA: Thoughts,  
16 comments, Mr. Mekeel?  
17 MR. MEKEEL: I do not have any.  
18 CHAIRMAN GIAMETTA: Mr. Zambito,  
19 thoughts, comments?  
20 MR. ZAMBITO: No, I am good.  
21 MR. GALELLA: Mr. Salinovich, was  
22 there an issue with the accessory use  
23 close to an orchard, if they were put  
24 on the other side, would that restrict  
25 them?

23

1 WORKSHOP - GALELLA  
2 MR. SALINOVICH: No.  
3 MR. GALELLA: I thought there was  
4 a buffer it had to be --  
5 MR. SALINOVICH: For a house,  
6 yeah.  
7 MR. GALELLA: What about for  
8 accessory usage?  
9 MR. SALINOVICH: No, just  
10 principal use, unless that was changed  
11 by the former officer back in his day.  
12 I have to sit down with Tommy and go  
13 and find out what he did.  
14 CHAIRMAN GIAMETTA: Gentlemen, you  
15 may sit for a moment. Mr. MacDonald,  
16 if you would recite maybe the options  
17 the applicant has at this time, please.  
18 MR. MacDONALD: Well, you're on  
19 for a workshop meeting. I assume that  
20 that's just an informal discussion of  
21 the Board about the application. It's  
22 up to the applicant to have the right  
23 to submit an application and request  
24 the Board to make a determination, you  
25 know, application for an area variance

1           WORKSHOP - GALELLA  
2       for interpretation, whatever the  
3       applicant chooses, and then the  
4       Board --  
5           CHAIRMAN GIAMETTA: Responds?  
6           MR. MacDONALD: -- would be  
7       required to treat it like every  
8       application for an area variance. You  
9       have to hold a public hearing, and you  
10      apply your balancing test. It's an  
11      application for an area variance, which  
12      generally is exempt. You would have to  
13      go through SEQR, depends on the  
14      location of the property. We talked  
15      about this. The referral to Ulster  
16      County, any of the departments, certain  
17      applications, and the property is  
18      within 500 feet of boundary of another  
19      municipality of a state or county  
20      parking, the state or county right of  
21      way, have to be referred to planning,  
22      Ulster County Planning Department. You  
23      treat this like any other application  
24      for an area variance and apply that  
25      same procedure. So taking the

25

1           WORKSHOP - GALELLA  
2       application for, to make a  
3       determination whether everything is  
4       required to be submitted is submitted,  
5       determine that the application is  
6       complete, schedule a public hearing,  
7       advertise for the public hearing, hold  
8       a public hearing, close the public  
9       hearing, and make your determination.  
10      CHAIRMAN GIAMETTA: Keep in mind  
11      that it's five items on the balancing  
12      test. Did you write those down?  
13      MR. GALELLA: No.

14 MR. GLOVER: No.  
15 MR. MEKEEL: So, basically, what  
16 they're saying, they can move to a  
17 public hearing if they went to?  
18 MR. MacDONALD: Well, they have  
19 the right to submit an application,  
20 they're appealing the determination.  
21 MR. GALELLA: Isn't my status now  
22 an applicant?  
23 MS. CASHMAN: He's already  
24 applied, then we do the workshop  
25 meeting, and then they determine

26

1 WORKSHOP - GALELLA  
2 whether to send them to public hearing.  
3 MR. GALELLA: Okay.  
4 MR. MacDONALD: So when you would  
5 submit an application, the Board can  
6 make a determination. You can't make  
7 your determination until after you've  
8 held a public hearing.  
9 CHAIRMAN GIAMETTA: Are these the  
10 five --  
11 MR. MacDONALD: No, that's for a  
12 use variance. There is a difference.  
13 This is an area variance. Standard is  
14 --  
15 MR. GLOVER: You're talking about  
16 a SEQR? You're talking about  
17 environmental impact form?  
18 MR. MacDONALD: No, the standard  
19 that the Board has to apply in making  
20 its determination for an area variance.  
21 CHAIRMAN GIAMETTA: Mr. Glover, if  
22 you would, please, I want this to be  
23 quite clear, read the yellow parts  
24 slowly and loud for the court reporter.  
25 MR. GLOVER: Whether an



1           WORKSHOP - GALELLA  
2       undesirable change will be produced in  
3       the character of the neighborhood or a  
4       detriment to nearby properties will be  
5       created by the granting of the area  
6       variance, that's item one. Two, is  
7       whether the benefit sought by the  
8       applicant can be achieved by some other  
9       method feasible for the applicant to  
10      pursue, other than an area variance.  
11      Number three, whether the requested  
12      area variance is substantial. Number  
13      four, whether the proposed variance  
14      will have an adverse effect or impact  
15      on the physical or environmental  
16      conditions in the neighborhood or  
17      district. And five, whether the  
18      alleged difficulty was self-created,  
19      which consideration shall be relevant  
20      to the discussion of the Board of  
21      Appeals, but shall not necessarily  
22      preclude the granting of the area  
23      variance.  
24      CHAIRMAN GIAMETTA: Thank you, Mr.  
25      Glover, and thank you everyone for

1           WORKSHOP - GALELLA  
2       staying through this workshop. It's up  
3       to you as the applicant now if you want  
4       to proceed to the next step, which is  
5       public hearing on the matter, or  
6       perhaps you may want to change your  
7       application somewhat, not saying you  
8       have to, but you have the option to  
9       change it, or you can just work with  
10      Ms. Cashman to proceed to a public  
11      hearing.

12 MR. GALELLA: I would like to  
13 proceed with a public hearing.  
14 CHAIRMAN GIAMETTA: Ms. Cashman,  
15 how does he do that; he has to come and  
16 see?  
17 MS. CASHMAN: I will send him the  
18 legal notice.  
19 MR. GLOVER: Question, if we went  
20 to the public hearing and it's granted,  
21 great. And if not, do we still have  
22 the opportunity to take the second  
23 alternative, which was discussed, which  
24 would be an interpretation of proximity  
25 of front versus back streets if this

29

1 WORKSHOP - GALELLA  
2 was denied?  
3 CHAIRMAN GIAMETTA: Mr. MacDonald?  
4 MR. MacDONALD: Technically,  
5 you're appealing the determination of  
6 the building inspector. There is a  
7 time limit on that, 60 days.  
8 MR. GALELLA: I think we would be  
9 satisfied with the outcome of the  
10 public hearing.  
11 CHAIRMAN GIAMETTA: Any more  
12 concerns or comments, Board members?  
13 MR. ZAMBITO: No.  
14 MR. MEKEEL: No.  
15 MR. SALINOVICH: No.  
16 CHAIRMAN GIAMETTA: Counsel?  
17 MR. MacDONALD: No.  
18 CHAIRMAN GIAMETTA: Staff? It's  
19 in your hands. Good luck to whatever  
20 you do.  
21 MR. GALELLA: Thank you everybody.  
22 MR. MEKEEL: I'll make a motion to  
23 adjourn the meeting.  
24 MR. ZAMBITO: I will second.

25 CHAIRMAN GIAMETTA: All in favor?

30

1 WORKSHOP - GALELLA

2 MR. SALINOVICH: Aye.

3 MR. MEKEEL: Aye.

4 MR. ZAMBITO: Aye.

5 CHAIRMAN GIAMETTA: And Aye.

6 Thank you. Thank you, Mrs. Rosso.

7 (Whereupon, at 7:50 P.M., the

8 Hearing was adjourned.)

9

10 ? ? ? ?

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2 C E R T I F I C A T E

3

4 STATE OF NEW YORK )

: SS.:

5 COUNTY OF ULSTER )

6

7 I, LISA M. ROSSO, a Notary Public for

8 and within the State of New York, do hereby

9 certify:

10 That the witness whose examination is

11     hereinbefore set forth was duly sworn and  
12     that such examination is a true record of  
13     the testimony given by that witness.

14         I further certify that I am not related  
15     to any of the parties to this action by  
16     blood or by marriage and that I am in no way  
17     interested in the outcome of this matter.

18         IN WITNESS WHEREOF, I have hereunto set  
19     my hand this 4th day of June 2021.

20

21

22     \_\_\_\_\_  
       LISA M. ROSSO

23

24

25