

1
2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

-----X

4

5 In the Matter of

6 LUCAS MONDELLO

7 James Street, Marlboro, New York 12542

8 -----X

9 PUBLIC HEARING FOR A 21.5' REAR YARD SETBACK
VARIANCE REQUEST

10

11 DATE: May 13, 2021

12 TIME: 7:30 P.M.

13 PLACE: Town of Marlborough

Town Hall

14 #21 Milton Turnpike

Milton, New York 12547

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16 BOARD MEMBERS: WILLIAM GIAMETTA, CHAIRMAN

LENNY CONN, absent

17 JEFF MEKEEL

DAVE ZAMBITO

18 GEORGE SALINOVICH

19 ALSO PRESENT: CARMEN MESSINA, Land
Surveyor, Professional Engineer

20 IAN S. MacDONALD, ESQ.

PENNY E. CASHMAN,

21 Zoning Board Secretary

22

23

-----X

24 LISA MARIE ROSSO

140 Mahoney Road

25 Milton, New York 12547

(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.

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

5

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 Giometta, 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,

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?

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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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

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LISA M. ROSSO

1

2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

4 -----X

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

11 STRUCTURE

12 DATE: May 13, 2021

13 TIME: 7:08 P.M.

14 PLACE: Town of Marlborough

15 Town Hall

16 #21 Milton Turnpike

17 Milton, New York 12547

18 BOARD MEMBERS: WILLIAM GIAMETTA, CHAIRMAN

19 LENNY CONN, absent

JEFF MEKEEL

DAVE ZAMBITO

GEORGE SALINOVICH

20

21 ALSO PRESENT: MICHAEL GWILLIAM

RAYMOND WELCH

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

22

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

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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

3

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

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,

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

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

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.

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 ? ? ? ?

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

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

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

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1

2 STATE OF NEW YORK : COUNTY OF ULSTER
3 TOWN OF MARLBOROUGH ZONING BOARD
4 -----X
5 In the Matter of
6 NICHOLAS GALELLA
7 17 Sunrise Drive, Milton, New York 12547
8 -----X
9 WORKSHOP MEETING FOR A FRONT YARD AREA
10 VARIANCE REQUEST TO INSTALL GROUND MOUNT
11 SOLAR PANELS

12 DATE: May 13, 2021

13 TIME: 7:18 P.M.

14 PLACE: Town of Marlborough
15 Town Hall
16 #21 Milton Turnpike
17 Milton, New York 12547
18 BOARD MEMBERS: WILLIAM GIAMETTA, CHAIRMAN
19 LENNY CONN, absent
20 JEFF MEKEEL
21 DAVE ZAMBITO
22 GEORGE SALINOVICH

23 ALSO PRESENT: NICHOLAS GALELLA
24 JAMIE GLOVER
25 PENNY E. CASHMAN,
Zoning Board Secretary
IAN S. MacDONALD, ESQ.

22

23

24 -----X
25 LISA MARIE ROSSO
140 Mahoney Road
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.

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

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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

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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

24

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.

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