

STATE OF NEW YORK : COUNTY OF ULSTER

TOWN OF MARLBOROUGH ZONING BOARD

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In the Matter of

MARC CASSALINA,
130 Mahoney Road
Milton, New York 12547

Discussion for a 14' rear yard setback variance
request

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WORKSHOP

Date: April 14, 2016
Time: 7:00 p.m.
Place: Town of Marlborough
Town Hall
#21 Milton Turnpike
Milton, New York 12547

BOARD MEMBERS: BILL GIAMETTA, CHAIRMAN
JEFF MEKEEL
DAVE ZAMBITO
LENNY CONN, Absent
GEORGE SALINOVICH

PENNY E. CASHMAN, ZONING BOARD SECRETARY
APPLICANT'S REPRESENTATIVES: DAVID FREEMAN
TIM MARQUIS

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LISA MARIE ROSSO
Certified Shorthand Reporter

1 WORKSHOP - MARC CASSALINA

2 CHAIRMAN GIAMETTA: Please
3 join us for the pledge of the flag.

4 (Pledge of Allegiance)

5 CHAIRMAN GIAMETTA: Thank you
6 very much. Welcome to the April 14, 2016
7 Town of Marlborough Zoning Board of Appeals
8 meeting. Tonight's cases are going to be
9 what we call workshops, presentations for
10 our consideration, review. We had some
11 minutes from a prior meeting; did we,
12 gentlemen? Did we have anything on that,
13 Penny?14 MS. CASHMAN: No, I e-mailed
15 them and you all approved it.16 CHAIRMAN GIAMETTA: We
17 approved those prior minutes already?

18 MS. CASHMAN: Yes.

19 CHAIRMAN GIAMETTA: Okay,
20 sounds good. All right. So having gotten
21 some preliminaries going here, would you
22 like to present the case in common lay terms
23 to us? First identify yourself for the
24 record, please.

25 MR. FREEMAN: So my name is

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2 David Freeman. I'm the architect for the
3 project. Just to kind of give you the
4 background of why we're here. When Marc
5 first bought the project, the original
6 survey map, which you have in your packet on
7 the last page, and so along the top of the
8 page is actually the property line in
9 question, which clearly shows the stonewall
10 running along the property line. So when
11 Marc sited his house, set it back, planning
12 for a future garage, looked good, the
13 architect came out, measured it off, said
14 we've got enough space based on it being on
15 the property line on the stonewall, designed
16 it that way, came when Marc was -- when he
17 had gotten further along the project to get
18 bank financing because they were going to
19 survey the property, went back to the
20 surveyor, got a survey of the property line
21 and somehow the stonewall had jumped over
22 seven feet. Little mistake.

23

CHAIRMAN GIAMETTA: Let me

24

interrupt you one second.

25

MR. FREEMAN: Sure.

1 WORKSHOP - MARC CASSALINA

2 CHAIRMAN GIAMETTA: On that
3 existing survey, the actual distance to the
4 house that's been built, has that been
5 measured off?

6 MR. FREEMAN: No. So the
7 original survey, like I said was when Marc
8 originally laid it out from the thought that
9 the stonewall was there, looked at zoning
10 codes, set it up so we could put the garage
11 on 19, whatever, 95 was the original house.

12 MR. CASSALINA: Three.

13 MR. FREEMAN: 93 was the
14 original house. The thought was it fit.

15 MR. CASSALINA: From my
16 house -- from the door of the house is 62
17 feet to the wall.

18 CHAIRMAN GIAMETTA: To the
19 wall?

20 MR. CASSALINA: And the wall
21 is 10 feet wide.

22 MR. ZAMBITO: Twelve.

23 MR. CASSALINA: Okay, 12 feet
24 wide. It's a monster stonewall.

25 MR. ZAMBITO: And there is a

1 WORKSHOP - MARC CASSALINA

2 rock outcropping here also.

3 MR. FREEMAN: So somehow in
4 that time the stonewall moved.

5 CHAIRMAN GIAMETTA: Let me
6 just get this straight. In other words,
7 from the original survey to the house line
8 now, is in reality, is it 62 or 50?

9 MR. CASSALINA: It's 62.

10 When I built the house, you know, I took
11 pictures and stuff. You guys obviously have
12 been up to my house.

13 MR. ZAMBITO: Yeah, we went
14 up there.

15 MR. CASSALINA: I made some
16 for everybody.

17 CHAIRMAN GIAMETTA: I'd like
18 to see them.

19 MR. CASSALINA: If you could
20 look back from when I built this thing
21 twenty something years ago, we offset the
22 house, you know, purposely to build this
23 garage, you know, and --

24 CHAIRMAN GIAMETTA: You
25 thought this was sufficient?

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MR. CASSALINA: With a 35-

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foot setback to the stonewall fence, as Dave
4 said, the stonewall fence is 12 feet, so
5 that gave me an additional 6 feet. I had
6 plenty of room. If you look through the
7 pictures, even the -- first you could see
8 the big rock outcropping on the left side.

9

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MR. MEKEEL: On the opposite
side of the house.

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MR. ZAMBITO: Yeah, we saw
that too.

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MR. CASSALINA: And I moved
that over onto that rock --

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MR. ZAMBITO: As much as you
could.

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MR. CASSALINA: Not even as
much as I could, to specifically fit this
garage. And you know, we went through a lot
of expense back then to -- there is an old
picture of pinning that original footings
and foundation to that rock --

23

24

MR. MARQUIS: The blocks are
laid on the rock.

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MR. CASSALINA: -- to give me

1 WORKSHOP - MARC CASSALINA

2 the space.

3 MR. ZAMBITO: Looks good.

4 CHAIRMAN GIAMETTA: But then
5 bringing frames forward now. So the old one
6 stated one thing --7 MR. FREEMAN: The old survey
8 we'll say was an error, I'm assuming. You
9 know, I don't pick on surveyors. It's a
10 hard job. To refinance it, the new survey
11 being done, clearly the old survey was in
12 error. The stonewall, I don't think moved,
13 I'm assuming --14 MR. ZAMBITO: That's the
15 stonewall we're talking about (indicating).

16 CHAIRMAN GIAMETTA: Oh, wow.

17 MR. ZAMBITO: It's like a
18 driveway.19 MR. FREEMAN: So we need a
20 variance of seven feet, a little over seven
21 feet, seven feet, three inches.22 CHAIRMAN GIAMETTA: Because
23 the actual line is what side of that wall?24 MR. FREEMAN: It's to the
25 west side of it, to the house side.

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MR. CASSALINA: To the house
side.

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CHAIRMAN GIAMETTA: Where it
was thought it might be in the middle of
that.

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MR. CASSALINA: Yeah.

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CHAIRMAN GIAMETTA: So your
surveys determine that it's on the west --

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MR. FREEMAN: Western edge of
that wall.

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CHAIRMAN GIAMETTA: So you
lost about 6 feet; was it?

14

MR. ZAMBITO: 7.3.

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MR. FREEMAN: Yes. So and,
you know to me, that's, I won't say it's not
a created hardship, self created, you know,
because it's a surveyor created hardship.

19

It is a nice colonial home -- large colonial
home, typically a garage is there. It's
always on the right-or left-hand side. The
architecture, the way it's laid out now fits
with the architecture of the building. We
could do a 19 foot, 6-inch garage, my car
wouldn't fit in it, you know. So it is

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2 possible, you know, yes, I actually drew it.

3 It looks -- it's a great colonial home and
4 here is this kind of skinny 19-foot, 6-inch
5 garage. So it's possible -- like I said, he
6 can go buy minions or whatever. You know,
7 the garage could be placed behind the house,
8 there is a rock outcropping behind the house
9 too. It would have to be detached from the
10 house, and that's not really how a colonial
11 home -- this hopefully will kind of complete
12 that look of a colonial home.

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Other than that, it's --

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we're asking for a 20 percent reduction.

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It's not, to me, a large variance that we're asking, you know. To me, it's not a substantial variance, and that is just my opinion as an architect. I've gotten some really good ones, you know. It doesn't affect the neighborhood per se. I don't think anybody is ever going to look at this and say, Oh, they got a 7 foot variance.

Marc did receive a letter of support from the neighbor.

MR. CASSALINA: I approached

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2 my neighbor, Sheila Mannese.

3 MR. SALINOVICH: To buy land?

4 MR. CASSALINA: Yes.

5 MR. SALINOVICH: That's good.

6 That helps us.

7 MR. CASSALINA: And I said,
8 you know, I ran into this problem. She's
9 lived there her whole life, I lived there my
10 whole life, we both thought that the
11 stonewall fence was our property line. So I
12 showed her this situation I'm in and asked
13 her if she would be willing to sell me some
14 land, which she does not want to sell me the
15 land. She's, you know -- maybe you know
16 her. She's very involved in the town, Meet
17 Me In Marlborough, she's concerned about the
18 stonewall fence and wanting to --

19 MR. ZAMBITO: Preserve it?

20 MR. CASSALINA: -- maintain
21 the integrity of the original stonewall
22 fence that is there, and concerned if I
23 purchase the land then I might change it.
24 So, you know, she said she doesn't care.
25 She will happily approve, to the extent that

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2 she has any authority, to let me have this
3 variance, and I won't change the stonewall
4 fence. I have enough room there. I don't
5 have to go into the fence. So I tried to
6 look at every other avenue before we got to
7 this point, but I'm just kind of at a loss
8 now.

9 MR. MARQUIS: The other
10 neighboring property coming up the property
11 on the right is his father's so, and Sheila
12 is directly across from the stonewall in
13 question.

14 MR. SALINOVICH: What's the
15 setback there? You got 54'5; what is the
16 setback?

17 MR. CASSALINA: What do I
18 need?

19 MR. FREEMAN: The required is
20 35 feet.

21 MR. SALINOVICH: What do you
22 have?

23 MR. CASSALINA: Well, I have
24 54 feet.

25 MR. SALINOVICH: So this is

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2 the exact --

3 MR. CASSALINA: That's to the
4 property line. Is that what you're asking?

5 MR. SALINOVICH: Yes.

6 MR. CASSALINA: Yes. We
7 thought the property line was on the fence.8 MR. SALINOVICH: So you got
9 54'5.10 MR. CASSALINA: I thought I
11 had 62 plus the 6. I thought I had 68. So,
12 and the garage is -- how deep is the garage?13 MR. FREEMAN: 26 feet. So I
14 know some boards are concerned with
15 firetruck access to the backyard. That's
16 not an issue here. Obviously, there is
17 still going to be enough space between the
18 garage and even the fence at that point. So
19 I think that is pretty much about, you know,
20 as far as what I see the project as, you
21 know. There is the original kind of error
22 in the survey, or error in the survey they
23 call it, site the original property, and
24 obviously that's been corrected. I don't
25 think the variance is a great deal. Could

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2 we address the issue by putting a garage
3 back on the rock or by making a very narrow
4 garage. It doesn't really accomplish the
5 same thing. So the owner's letter to me is
6 probably one of the better parts of it.

7 MR. MARQUIS: Dave, did you
8 walk onto the west side of the house; have
9 you seen the rock cropping in?

10 MR. ZAMBITO: Oh, yeah, we
11 did, definitely. That was the first thing
12 that we saw, the rock. We just took for
13 granted that's why he put it where it was.

14 MR. MARQUIS: And that's why
15 putting it on that side of the house is --

16 MR. SALINOVICH: You had to
17 blast for the swimming pool; didn't you?

18 MR. CASSALINA: I had to
19 hammer it out.

20 MR. MARQUIS: You didn't have
21 to blast?

22 MR. CASSALINA: I didn't have
23 to blast.

24 MR. SALINOVICH: I remember
25 all of that rock.

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WORKSHOP - MARC CASSALINA

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MR. CASSALINA: And that same rock that is in the -- that gave me the problem with the pool. That comes into the back of the house. That is why we couldn't put the house back any more either. We tried to put it right in this tenuous spot to move it over enough on that ledge to give us room for the garage, but not back to get into the other rock. It's all rock over there. I know if you look at the big map, it looks like I have all of this land.

MR. ZAMBITO: Right.

MR. CASSALINA: But it's very narrow. You were up there at my house, Bill, you have been to my house.

CHAIRMAN GIAMETTA: Actually, I haven't been up there. I was looking forward to it.

MR. CASSALINA: It's a very narrow piece of property with this big ledge.

CHAIRMAN GIAMETTA: So the usable part is somewhat less than -- much less than the lot appears. I'm looking at

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these numbers now. I just want to make sure
that the addition and subtraction, am I
reading 54.5 overall from the existing house
edge?

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MR. FREEMAN: Yes.

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CHAIRMAN GIAMETTA: To the
property line?

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CHAIRMAN GIAMETTA: And are
we taking away the distance of the garage of
26 from that?

MR. FREEMAN: Yes.

CHAIRMAN GIAMETTA: So your
request is -- what is your request adding up
to?

MR. CASSALINA: 7 feet 1 inch
or 7 feet 2 inches.

MR. FREEMAN: 7 feet 1 inch
7.1 feet technically.

CHAIRMAN GIAMETTA: Okay.

MR. CASSALINA: I think she
put that on --

MR. MEKEEL: 7 feet 3 inches.

MR. ZAMBITO: 7 feet 3.

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2 CHAIRMAN GIAMETTA: How'd the
3 -- are those just additions?

4 MR. FREEMAN: Yes.

5 CHAIRMAN GIAMETTA: Rounded
6 it off a little bit?

7 MR. FREEMAN: Yes.

8 CHAIRMAN GIAMETTA: Just to
9 make sure we're in the same numbers, so it's
10 a 7.3 foot request?

11 MR. FREEMAN: Right.

12 MR. CASSALINA: So it's 27.9
13 is what I have with the garage, based on the
14 surveyor's map, so 35 feet minus 27.9
15 brought us to 7.1 feet.

16 CHAIRMAN GIAMETTA: You
17 rounded it up to 7.3 just to be sure. We
18 should probably keep it to --

19 MR. MEKEEL: Exact?

20 CHAIRMAN GIAMETTA: I would
21 say so. Well, you mean you're not going to
22 add onto the garage any further than that?

23 MR. FREEMAN: No. And I
24 don't know what your rules are as far as
25 overhangs in the zoning.

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2 MR. MEKEEL: Did you include
3 the trim?

4 MR. FREEMAN: That is the two
5 inches --

6 MR. MEKEEL: You better make
7 it 7.3.

8 CHAIRMAN GIAMETTA: Leave it
9 7.3.

10 MR. MARQUIS: Wait a minute
11 now. We're talking about soffits and
12 fascia?

13 MR. ZAMBITO: That's 12
14 inches.

15 MR. SALINOVICH: 12 or 24,
16 whatever it is.

17 MR. ZAMBITO: 2-foot
18 overhang.

19 CHAIRMAN GIAMETTA: Is it
20 going to be 12 inches?

21 MR. FREEMAN: Yeah, so 8-foot
22 3.

23 CHAIRMAN GIAMETTA: 8.3 or
24 8.1? Let's get it right.

25 MR. CASSALINA: I think she

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wrote --

CHAIRMAN GIAMETTA: Who is

MR. CASSALINA: "She" being the surveyor.

CHAIRMAN GIAMETTA: Oh,
surveyor (addressing Mr

MR. CASSALINA: He's the architect.

CHAIRMAN GIAMETTA: Okay.

MR. CASSALINA: I believe the surveyor wrote 7.1 feet instead of inches. So let's make it 8 feet 3 inches.

MR. MEKEEL: 8-3.

CHAIRMAN GIAMETTA: Which is the exact amount.

MR. MEKEEL: Yes.

CHAIRMAN GIAMETTA: Let's get
that corrected at 8 foot 3, that includes
the --

MR. MARQUIS: The overhead and soffits.

CHAIRMAN GIAMETTA: Okay. 8

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2 feet 3 inches. I noticed on the drawing
3 of -- is that the basement stairs?

4 MR. FREEMAN: Right.

5 CHAIRMAN GIAMETTA: Will they
6 remain?

7 MR. FREEMAN: Yes, they will.
8 We'll leave them. We'll put two pipes in
9 front of them.

10 CHAIRMAN GIAMETTA: Just
11 curious.

12 MR. MARQUIS: We might have
13 to put -- I don't know. Maybe someone can
14 comment on that down at the end of the
15 table. We might put some walls with some
16 fire rated Sheetrock and a fire door going
17 down there if Tommy decides it's required.

18 MR. SALINOVICH: That has
19 nothing to do with us right now.

20 MR. CASSALINA: So the stairs
21 will remain there.

22 CHAIRMAN GIAMETTA: That is
23 all I was wondering because that shortens
24 your driving distance on that side it looks
25 like.

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2 MR. FREEMAN: I think Marc's
3 wife's car will fit in there.

4 MR. CASSALINA: Her car is
5 shorter than my car, yeah.

6 MR. MARQUIS: At 19.6 you're
7 not parking anything in there. And then you
8 have the stairs going to the house and the
9 next bay, and at 19.6 you're not parking
10 anything in there so --

11 CHAIRMAN GIAMETTA: Anything
12 further you want to present to us?

13 MR. FREEMAN: No.

14 MR. CASSALINA: Any
15 questions?

16 CHAIRMAN GIAMETTA: Now, I'm
17 going to ask the board if we have any
18 questions.

19 MR. MEKEEL: I don't. I was
20 on site. I understand the site perfectly
21 well.

22 MR. ZAMBITO: No questions.

23 CHAIRMAN GIAMETTA: All
24 right. I believe it's advisable now to go
25 for a public hearing on this matter?

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MR. MEKEEL: I will make a motion that we move to a public hearing on this matter.

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MR. ZAMBITO: I will second.

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CHAIRMAN GIAMETTA: And a vote?

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MR. SALINOVICH: Aye.

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MR. MEKEEL: Aye.

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MR. ZAMBITO: Aye.

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CHAIRMAN GIAMETTA: And aye for the chair. We're going to move to a public hearing. That is an official advertisement as you know, and that will be coming up before the next meeting, right Penny? And the next meeting we can entertain this once again.

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MS. CASHMAN: So the public hearing will be next month; right?

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CHAIRMAN GIAMETTA: Yes. The mailings will go out before that, of course.

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MR. CASSALINA: Do I send out the mailing or how does that work?

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MS. CASHMAN: I think over across the hall in the planning and

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assessors, according to my notes, is who can give you all of the addresses for everybody.

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MR. CASSALINA: I have all of the addresses. I put it in the file for you.

7

MS. CASHMAN: You send them out.

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MR. CASSALINA: I send the letters out. Do you provide the letter or what needs to be said?

12

CHAIRMAN GIAMETTA: You need to come in and meet with Penny.

14

MS. CASHMAN: With Chestnut Oil I know I just actually printed labels for the cards for them.

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MR. ZAMBITO: Do you know all of the neighbors within 500 feet?

19

MR. CASSALINA: I do.

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MR. ZAMBITO: Okay. So if you already have that --

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MR. CASSALINA: I'm related to most of them.

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MR. MEKEEL: Just make sure you change that to 8 feet, 3 inches.

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CHAIRMAN GIAMETTA: Now,

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we'll have to give you the wording on that.

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MR. CASSALINA: I guess that is what I'm asking. What do you want it to say specifically?

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CHAIRMAN GIAMETTA: We'll have to word that just right for the side yard.

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MR. MEKEEL: Yeah.

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CHAIRMAN GIAMETTA: The amount we have was what; 8 -- 8.3 inches?

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MR. CASSALINA: Yes.

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CHAIRMAN GIAMETTA: What would the wording be on that?

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MR. MEKEEL: Whether it's an area variance.

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CHAIRMAN GIAMETTA: Well, it is an area variance.

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MR. MEKEEL: Right. It would be an area variance with a side yard -- for a side yard variance of 8 feet 3 inches.

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CHAIRMAN GIAMETTA: You will have to formulate that, Pen. We'll help you with that.

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MS. CASHMAN: All right.

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CHAIRMAN GIAMETTA: Because

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that is the letter that you will have to
mail out to the neighbors.

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MR. CASSALINA: Right.

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MR. ZAMBITO: Well, why don't
we do it right now so she knows and it's on
record that they're looking for an 8.3-foot
side yard variance -- area variance;
correct?

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CHAIRMAN GIAMETTA: 8 foot, 3
inches.

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MR. ZAMBITO: Let's do that
now so we're all on the same page. Make a
motion to provide an 8 foot 3 inch side yard
setback variance on the east side of the
property.

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CHAIRMAN GIAMETTA: This is
something that you can pick up from Penny.
Give her a couple of days to get it
together.

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MR. MARQUIS: What's the
return time and what percentage of letters
do we have to get back?

1 WORKSHOP - MARC CASSALINA

2 MR. ZAMBITO: No percentage.

3 Send them out certified.

4 MS. CASHMAN: Save all of the
5 little --6 MR. MARQUIS: Save the return
7 receipts and that is it.8 MS. CASHMAN: Right. Save
9 the little white slips and then bring all of
10 the cards.11 MR. MARQUIS: Didn't they
12 used to be green?13 MS. CASHMAN: The cards are
14 green. When they come back there is a
15 little receipt of who you send them to.16 CHAIRMAN GIAMETTA: And then
17 we'll end up counting those at the next
18 meeting.

19 MR. CASSALINA: Okay.

20 MR. FREEMAN: Is there a
21 signage posted, do you guys do that?

22 CHAIRMAN GIAMETTA: A sign?

23 MR. MARQUIS: Saying that
24 it's under review.

25 CHAIRMAN GIAMETTA: I'm not

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aware of that.

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MR. FREEMAN: A lot of times there is a sign on the site that this property is under review by Zoning Board of Appeals.

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CHAIRMAN GIAMETTA: I don't recall doing that. Okay. So we'll develop the letter, and we'll get it to the applicant and then they will be in for the next meeting.

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MR. MARQUIS: So at the beginning of the week, we'll come in and pick it up, do our mailings and then we'll be all set for now until the next meeting.

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MR. CASSALINA: Do you know when the second meeting is?

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MS. CASHMAN: It's always the second Thursday of the month.

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MR. MARQUIS: Is your vote at the next meeting or --

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CHAIRMAN GIAMETTA: Next meeting. Thank you for coming in.

MR. CASSALINA: Thank you.

(Time noted: 7:23 p.m.)