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M I N U T E S
OF THE MEETING
OF THE
ZONING BOARD OF APPEALS
INCORPORATED VILLAGE OF MALVERNE
November 13, 2025
7:00 p.m.

PRESENT:

BENJAMIN TRUNCALE,	CHAIRMAN
BRUCE MAWHIRTER,	MEMBER
MARY ANN HANSON,	MEMBER
JOHN TULLEY,	MEMBER

Also Present:

Kevin Walsh - Village Attorney
Mary Kate Schnaars - Building Department Clerk

1 CHAIRMAN TRUNCALE: Good evening,
2 everybody. Please rise for the Pledge of
3 Allegiance.

4 (Whereupon, the Pledge of Allegiance
5 was recited.)

6 CHAIRMAN TRUNCALE: Good evening,
7 everybody. Welcome to the Zoning Board meeting
8 for November 13th.

9 We have three applications this
10 evening.

11 The first application for consideration
12 by the Board is that of 5 Birch Road, proposing
13 to construct a two-story addition and second
14 story rear wood deck; proposing to construct an
15 804 square foot paved driveway in front and 30
16 foot wide apron and curb cut.

17 Good evening. Please state your name
18 and address for the record.

19 MR. FEIHEL: Sure. Nicholas Feihel, 58
20 Lexington Avenue, Malverne, representing
21 Mr. and Mrs. Herrera of 5 Birch Road.

22 We are proposing a two-story side
23 addition that will expand the current bedroom
24 capacity space for the Herrera family,
25 including Mr. and Mrs. Herrera, their four kids

1 and Mrs. Herrera's father. Right now the house
2 is three bedrooms, we will be expanding to the
3 left side of the house an additional three
4 bedrooms, two on the upper level, one on the
5 ground floor. We are expanding -- asking for
6 relief of 3.28 percent for the allowable
7 40 percent floor area ratio, for a total of
8 42.38 percent, as well as a relief of 4.79
9 percent for the allowable lot coverage.

10 I do want to make a note that the lot
11 coverage does include the 420 square foot pool.
12 If that pool was not included, we would meet
13 the lot coverage requirement.

14 The rear yard setback being proposed is
15 16.75 feet, when 25 feet is required, this
16 would be to the new second story wood deck.
17 The deck is actually smaller than the existing
18 sunroom that is there. So we are increasing
19 the minimum rear yard.

20 The second story we understand the
21 hesitation of the Board to grant second story
22 decks. In this case this is a high ranch, so
23 there is no direct access from the true living
24 area, the kitchen, dining room, living, to the
25 outside, so we would like to explore providing

1 that for the Herrera family. Of course the
2 deck will be fully built to code, including
3 railings, tiebacks, everything, making sure it
4 stays safe. We removed the staircase down to
5 the patio, so this is to minimize unintended
6 access from the kids to the pool.

7 And then finally we are asking to
8 expand the driveway from the existing
9 approximately 20 feet wide, an additional
10 10 feet for a total of 30 feet in width.

11 This is, again, to accommodate the
12 growing family. Currently they have two cars,
13 the kids are growing up, they will need
14 additional car space.

15 I do want to make one correction
16 though, we will not be requesting the expansion
17 of the curb cut. The curb cut will stay as 20
18 feet, it will just be adjusted to provide
19 access to the full 30 foot.

20 CHAIRMAN TRUNCALE: I will open it up
21 to the fellow Board members for questions.

22 MEMBER MAWHIRTER: Can you explain a
23 little bit more on the access from the driveway
24 from the existing curb cut and how that's going
25 to accommodate?

1 MR. FEIHEL: Of course. The curb cut
2 is 20 feet maximum allowed, the total width of
3 the driveway will be 30 feet. So instead of
4 expanding the curb cut to the right, or to the
5 east, to accommodate that extra parking spot,
6 we'll adjust the curb cut so it's 5 feet on
7 either side and it's easier to get the cars in
8 without going beyond the maximum allowed.

9 MEMBER MAWHIRTER: Instead of riding
10 over the sidewalk.

11 MR. FEIHEL: Correct.

12 MEMBER TULLEY: You are going to center
13 it?

14 MR. FEIHEL: Right.

15 CHAIRMAN TRUNCALE: But it's not going
16 to increase?

17 MR. FEIHEL: Just center it.

18 CHAIRMAN TRUNCALE: Jack?

19 MEMBER TULLEY: The deck thing, the
20 deck doesn't meet the setback, if I'm correct?

21 MEMBER HANSON: No.

22 MEMBER TULLEY: And to have something
23 like that in terms of safety, I know where the
24 pool is, I just don't like that idea.

25 And also the neighbors, you are

1 basically bringing living space up above the
2 fence, which will make it, I would think, not
3 conducive to the neighbors in terms of living
4 space and privacy.

5 MR. FEIHEL: The existing rear yard is
6 heavily screened.

7 MEMBER TULLEY: I know it is. But
8 it's -- that's just it, it's going to be above
9 the screen.

10 MR. FEIHEL: Of course.

11 MEMBER HANSON: Yeah. I think we were
12 all in agreement over that.

13 MR. FEIHEL: Sure.

14 MEMBER HANSON: Number one, I also have
15 an issue with an upper deck when a pool is in
16 the yard.

17 MR. FEIHEL: Understood.

18 MEMBER HANSON: I know it's safety
19 issues.

20 MR. FEIHEL: We figured we'd explore
21 it.

22 MEMBER HANSON: Especially with
23 teen-agers.

24 CHAIRMAN TRUNCALE: I know this Board
25 in the past has reviewed certain things, but

1 some of those things have been preexisting when
2 it comes to a second floor, dare I say, deck,
3 it was more of, like, over a garage with a door
4 that preexisted.

5 MR. FEIHEL: Correct.

6 CHAIRMAN TRUNCALE: So it's not
7 something that we often entertain and allow.

8 MR. FEIHEL: Understood.

9 We would be willing to remove that from
10 the scope of work.

11 CHAIRMAN TRUNCALE: Also the pool I
12 think adds an element to it also.

13 MEMBER TULLEY: Even though it's offset
14 from the pool it's still.

15 CHAIRMAN TRUNCALE: It is. And then
16 the other thing is, like, we are charged with
17 looking at the surrounding neighborhood, and I
18 don't think the decks like this are something
19 that are prevalent obviously in the
20 neighborhood, that's where I am for now.

21 MR. FEIHEL: Understood.

22 CHAIRMAN TRUNCALE: Any other
23 questions?

24 MR. WALSH: Did you withdraw that or
25 you want the Board to consider it?

1 MR. FEIHEL: We would be willing to
2 withdraw that from the scope of work.

3 CHAIRMAN TRUNCALE: Okay.

4 MR. FEIHEL: If the Board is looking to
5 approve the addition itself, the addition is
6 most important. The sunroom, I believe, went
7 for a variance previously, I think four years
8 ago.

9 CHAIRMAN TRUNCALE: To keep it.

10 MR. FEIHEL: To keep the sunroom with
11 the rear yard setback.

12 I would just want to make a note that
13 if the sunroom is kept, the lot coverage
14 numbers -- lot coverage and floor area numbers
15 do adjust slightly higher because it is larger.
16 It would adjust to lot coverage would be
17 30.5 percent.

18 CHAIRMAN TRUNCALE: As opposed to?

19 MR. FEIHEL: As opposed to 29.79. And
20 floor area would adjust 45.9 versus the 43.28.

21 CHAIRMAN TRUNCALE: Counsel, issue?

22 MR. WALSH: No, because if you withdraw
23 it you still have the right to build with this
24 variance, if you get the variances, the
25 existing first floor room, whatever that is

1 there.

2 MR. FEIHEL: Correct. Theoretically it
3 would be approving -- the Board would be
4 approving a larger number because the
5 sunroom -- the deck was replacing the sunroom.

6 MR. WALSH: What's the difference?

7 MR. FEIHEL: The floor area ratio would
8 go from 43.28 to 45.9, and the lot coverage
9 would go from 29.79 to 30.5.

10 CHAIRMAN TRUNCALE: First of all, the
11 case has been noticed, so I believe anybody --

12 MR. WALSH: Is there anybody here on
13 this case, other than the applicant? I'm
14 sorry. Anybody who wants other than the
15 applicant?

16 CHAIRMAN TRUNCALE: Why don't we do
17 that first.

18 MR. FEIHEL: Sure.

19 CHAIRMAN TRUNCALE: So is there anybody
20 that wants to be heard on the application? We
21 invite you up to the podium to be heard.

22 Please state your name and address.

23 Welcome.

24 MS. OSBORNE: Julie Osborne, 70 Rider
25 Avenue, Malverne.

1 My home is right behind the pool. The
2 pool is approximately 15 feet from the fence of
3 my backyard, and now they are proposing to put
4 another floor on this which is, of course,
5 ridiculous, too much for us.

6 I've been in my home for 60 years, and
7 that would make it look like an apartment
8 building in front of me.

9 That's it, that's all.

10 MR. WALSH: So I think that what we are
11 hearing now is the consideration by the
12 applicant of removing that request.

13 MS. OSBORNE: Absolutely.

14 CHAIRMAN TRUNCALE: They are removing
15 the deck.

16 MS. OSBORNE: I don't want them to put
17 another story on the house. They want to put
18 an addition, is that what I understand?

19 MS. SCHNAARS: Could I just clarify?
20 They are doing a two-story addition to the side
21 of the house. So it's not that they are
22 building on top of this roof, they are going to
23 go out to the side.

24 MS. OSBORNE: You can't tell that.

25 MS. SCHNAARS: That's okay. If this is

1 the front of the house here, they are building
2 over here on the side of the house.

3 MS. OSBORNE: Here I am.

4 MS. SCHNAARS: You are back here. This
5 is your lot here, and they are building over
6 here.

7 And then they want to do the deck here
8 which is one of the concerns that we are
9 discussing.

10 MS. OSBORNE: Enough deck and enough
11 parties back there.

12 CHAIRMAN TRUNCALE: Well, they've
13 withdrawn the deck request based upon our
14 comments.

15 MS. OSBORNE: That's it. That's why I
16 am here.

17 Thank you.

18 CHAIRMAN TRUNCALE: Thank you.

19 MR. WALSH: I think you can proceed
20 with this application.

21 CHAIRMAN TRUNCALE: Is there anybody
22 else that wishes to be heard either in favor or
23 against?

24 (Whereupon, there was no response.)

25 CHAIRMAN TRUNCALE: Would you like to

1 just sum up? Is there anything else?

2 MR. FEIHEL: No, that was really it.

3 We would be willing to remove the second story
4 deck from the scope of work, understanding the
5 implication it creates.

6 CHAIRMAN TRUNCALE: Well --

7 MR. WALSH: Can you put on the record
8 the removal of the second story deck is
9 accompanied by your application to amend the
10 FAR variance to how many, to what percentage?

11 MR. FEIHEL: FAR would adjust 45.9 from
12 43.28.

13 MR. WALSH: And you are going to amend
14 the lot coverage?

15 MR. FEIHEL: From 29.79 to 30.5.

16 MR. WALSH: So does the Board
17 understand that? The slight variation because
18 we are going back to the existing.

19 MS. SCHNAARS: Sunroom to remain.

20 CHAIRMAN TRUNCALE: To remain.

21 MR. FEIHEL: Yes.

22 MR. WALSH: In that configuration.

23 CHAIRMAN TRUNCALE: That space, that
24 spot.

25 MR. FEIHEL: Yes.

1 MR. WALSH: You can do something with
2 it.

3 CHAIRMAN TRUNCALE: In light of the
4 withdrawal of the application for the
5 second-story deck, in reviewing the requested
6 relief, it's in keeping with certainly relief
7 we've granted before, it's not out of the
8 parameters of what we've considered and
9 approved.

10 I think based upon that withdrawal and
11 our comments I would entertain a motion to
12 approve the application as amended to withdraw
13 that portion of the application, and as a
14 result of that keeping the sunroom in place and
15 within the parameters of increasing the relief
16 requested to 30.5 for --

17 MR. WALSH: Lot coverage.

18 CHAIRMAN TRUNCALE: -- lot coverage and
19 FAR of 45.9.

20 MR. WALSH: And then you are also
21 withdrawing your application for the curb cut
22 width?

23 MR. FEIHEL: The curb cut width, yes.
24 The driveway width we would like to maintain.

25 CHAIRMAN TRUNCALE: Is there a motion?

1 MEMBER TULLEY: I'll make a motion to
2 accept.

3 CHAIRMAN TRUNCALE: Is there a second?

4 MEMBER MAWHIRTER: I'll second.

5 CHAIRMAN TRUNCALE: All those in favor?

6 (Chorus of ayes.)

7 MR. FEIHEL: Thank you very much.

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1 CHAIRMAN TRUNCALE: The next
2 application is 217 Hempstead Avenue, proposes
3 to construct 1,210 square foot of paved
4 driveway in front yard; add new front yard
5 circular driveway with new 12 foot wide
6 southernly curb cut.

7 Who is here?

8 MR. PASSALACQUA: We are.

9 CHAIRMAN TRUNCALE: Please state your
10 name and address for the record.

11 MR. PASSALACQUA: Vito Passalacqua, 217
12 Hempstead Avenue.

13 MR. RODRIGUEZ: Eric Rodriguez, 34
14 Johnson Avenue.

15 CHAIRMAN TRUNCALE: Please explain to
16 the Board what you are looking to do.

17 MR. RODRIGUEZ: Okay, 217, we are
18 looking to do a horseshoe driveway because the
19 driveway there right now is dangerous backing
20 up to get onto Hempstead Avenue, so it's really
21 difficult, so we want something more safe and
22 more conducive to the property.

23 CHAIRMAN TRUNCALE: Okay. Anybody have
24 any questions?

25 MEMBER HANSON: Bruce, you want to take

1 it away?

2 MEMBER MAWHIRTER: Yeah. In regard
3 to -- so you are aware you have to go to the
4 County in addition to our approval, as well as
5 some other approvals.

6 MR. PASSALACQUA: For the curb cut,
7 yes.

8 MEMBER MAWHIRTER: Have you explored
9 the requirements for the County as far as
10 setbacks with utility poles, property lines?

11 MR. PASSALACQUA: Yes.

12 MEMBER MAWHIRTER: Is it your
13 understanding that what you depict on the plan
14 that the County is going to require?

15 MR. PASSALACQUA: Yes.

16 MEMBER MAWHIRTER: My understanding
17 it's a little bit different.

18 MR. PASSALACQUA: From what I
19 understand, with talking to the architect, we
20 have the side setback I guess off the property
21 line. I know that there is a pole there that
22 we explained that we were going to put a
23 bollard in front of, if that's an issue with
24 them. We'll see what they require. I think if
25 we put a bollard that should satisfy what they

1 are afraid of.

2 MEMBER MAWHIRTER: I think you have to
3 verify with the County.

4 MR. PASSALACQUA: I think it was 3
5 feet.

6 MEMBER MAWHIRTER: Correct.

7 MR. PASSALACQUA: And 5 feet off the
8 property line. So we are right there.

9 MEMBER MAWHIRTER: You show 2 foot
10 right now.

11 MR. PASSALACQUA: We also have an 18
12 inch spread on each side, so we are going to
13 see if we can cut that back a little bit in
14 order to -- I know it's close.

15 CHAIRMAN TRUNCALE: To make the number?

16 MR. PASSALACQUA: To make the number.

17 MEMBER MAWHIRTER: Right now your
18 drawings do show a 2 foot offset. So my
19 concern is that if you -- if they do make you
20 shift it to the 5 foot, you may get closer to
21 that utility pole, which you currently do not
22 show an offset. So I am just concerned in
23 meeting the County requirements you have to
24 make some adjustments.

25 MR. PASSALACQUA: We are. We

1 definitely are.

2 I already spoke about that with the
3 architect, a bollard was an idea I presented to
4 him, if that's an issue if it's too close then
5 we'll close the spread a little bit and, you
6 know, we may have to play with it a little bit,
7 that's all.

8 MEMBER MAWHIRTER: Okay.

9 MR. PASSALACQUA: I think it's going to
10 be a very good thing for the house, and getting
11 in and out of there, and the safety of the
12 pedestrians walking on the sidewalk.

13 MEMBER MAWHIRTER: I think there's
14 bushes in front of the house right now, tall
15 bushes?

16 MR. PASSALACQUA: Right. So we took
17 down most of them, we are going to take down
18 the rest obviously. Regardless of the driveway
19 or not, those are coming down.

20 And then, A, it will dress up the
21 house, make it look nicer. Across the street
22 there is a horseshoe, down on Hempstead Avenue
23 there is another one over there, a few more
24 down there.

25 I know the property size is a little

1 bit different, but it definitely will help the
2 Village with less cars parked on the street,
3 and it's a little tight in that area too,
4 parking spot there, you know, most of the cars
5 are hanging over the white line when they are
6 parked, so we'll keep more cars on the property
7 and it will be a little bit safer for the
8 people getting in and out.

9 CHAIRMAN TRUNCALE: You understand also
10 that regardless of what this Board -- if this
11 Board approves, you do need to appear before
12 the Board of Trustees also; you understand
13 that?

14 MR. PASSALACQUA: That's what I
15 understand, yeah.

16 CHAIRMAN TRUNCALE: Okay. Any other
17 questions?

18 MEMBER TULLEY: No.

19 CHAIRMAN TRUNCALE: Anybody in the
20 public that wishes to be heard?

21 (Whereupon, there was no response.)

22 MEMBER HANSON: I have one question.

23 CHAIRMAN TRUNCALE: Yes.

24 MEMBER HANSON: I feel like we are kind
25 of doing it backwards. That if the County

1 doesn't approve it, or you have to do cutbacks
2 on your driveway, even back further and the
3 width, then they will have to come back to us.

4 CHAIRMAN TRUNCALE: If it changes.
5 Just so you are aware, if what you are
6 presenting changes, you actually have to then
7 make like a letter application to us and then
8 appear again to modify what you've got.

9 MR. PASSALACQUA: I got you.

10 CHAIRMAN TRUNCALE: Counselor.

11 MR. WALSH: I think -- look, I think
12 the presumption is that they've talked to the
13 architect, they think they can get this done
14 with this plan, you are giving caution that
15 they have to come back if it changes, but
16 coming back, they are already here, so I don't
17 see any reason why -- you can do it both ways,
18 but I think their request might be, can we get
19 a ruling tonight. Might help you with County
20 too if you got the approval from the Zoning
21 Board.

22 MR. PASSALACQUA: Of course.

23 CHAIRMAN TRUNCALE: And then you would
24 just submit a letter asking to be reconsidered
25 or to open --

1 MR. WALSH: Modify.

2 CHAIRMAN TRUNCALE: Modify.

3 MR. PASSALACQUA: To show you what they
4 agreed on.

5 CHAIRMAN TRUNCALE: If it's something
6 different.

7 MR. PASSALACQUA: If it's different.
8 If it's not different then we can go ahead with
9 it.

10 CHAIRMAN TRUNCALE: Mary Kate, you are
11 good?

12 MS. SCHNAARS: Yes.

13 MEMBER MAWHIRTER: Approval could be
14 subject to.

15 CHAIRMAN TRUNCALE: Yeah. I think the
16 motion would be -- if everybody is inclined,
17 the motion would be to approve the application
18 subject to County approval and approval of the
19 Board of Trustees, with the understanding that
20 if it's modified you must move to amend and
21 come back to the Board.

22 MR. PASSALACQUA: Okay. But if they
23 approve it?

24 CHAIRMAN TRUNCALE: Then you are good.
25 Is there a first motion?

1 MEMBER HANSON: I will first.

2 CHAIRMAN TRUNCALE: Is there a second?

3 MEMBER MAWHIRTER: I'll second.

4 CHAIRMAN TRUNCALE: All those in favor?

5 (Chorus of ayes.)

6 MR. PASSALACQUA: Thank you.

7 MEMBER TULLEY: Thank you.

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1 CHAIRMAN TRUNCALE: Last application is
2 60 Ambrose Avenue, proposing to construct a new
3 second story rear addition over existing first
4 floor and front porch.

5 Please state your name and address for
6 the record.

7 MR. MONTANTE: Ben Montante, 60 Ambrose
8 Avenue, Malverne, New York 11565.

9 MS. MONTANTE: Phyllis Montante,
10 60 Ambrose Avenue, Malverne, New York.

11 CHAIRMAN TRUNCALE: Please present your
12 application.

13 MR. MONTANTE: So what I'm looking to
14 do here is my mother lives at 60 Ambrose
15 Avenue.

16 Ever since my father passed away
17 15 years ago it's just getting worse and worse
18 for her to keep up with the bills, she lives on
19 Social Security.

20 So what I am proposing to do is move
21 in, put up a second story on the same footprint
22 of the house, where me and my fiance would live
23 on the second floor if possible, keeping my
24 mother on the first floor and helping her pay
25 the bills in the house and stay in Malverne.

1 MR. WALSH: Can I ask a question?

2 CHAIRMAN TRUNCALE: Sure, please.

3 MR. WALSH: The second story is your
4 neighbor in the rear, I think we already have a
5 setback issue in the rear, and now you are
6 going to add a second story to that. The only
7 person I think who is really impacted here is
8 your neighbor.

9 MR. MONTANTE: Richie.

10 MR. WALSH: Have you spoken to them
11 about this?

12 MR. MONTANTE: Yeah, he's a volunteer
13 with the fire department for Malverne, he's
14 okay with it.

15 MR. WALSH: I know he got notice of it,
16 he's not here so I assume he doesn't have a
17 problem.

18 MR. MONTANTE: They are all good.

19 MR. WALSH: With something like this,
20 sometimes we like to see an applicant
21 communicate with neighbors, and then even if it
22 comes through you, as it's coming through you,
23 we know that you have spoken with him.

24 MR. MONTANTE: They both have dormers
25 on their house as well, so that's why I am,

1 like, okay I will move in and help her out.
2 Come here and ask for your blessing and take it
3 from there, but I asked him already, I asked
4 him ahead of time.

5 MR. WALSH: Thank you.

6 CHAIRMAN TRUNCALE: He's got to do all
7 of the shovelling.

8 MR. MONTANTE: I got a snow blower.
9 It's a corner property.

10 CHAIRMAN TRUNCALE: Corner property.

11 MR. MONTANTE: I do his house also.

12 CHAIRMAN TRUNCALE: A corner property,
13 that's the worst.

14 Any other questions on the Board?

15 MR. WALSH: We don't get any snow,
16 right?

17 MR. MONTANTE: We get snow around here,
18 slight.

19 CHAIRMAN TRUNCALE: Any other
20 questions?

21 MEMBER TULLEY: No.

22 CHAIRMAN TRUNCALE: Bruce?

23 MEMBER MAWHIRTER: No.

24 CHAIRMAN TRUNCALE: Anybody in the
25 public wishes to be heard?

1 (Whereupon, there was no response.)

2 CHAIRMAN TRUNCALE: So at this time I
3 would entertain a motion to grant the
4 application as submitted.

5 MEMBER MAWHIRTER: I'll make that
6 motion.

7 CHAIRMAN TRUNCALE: Is there a second?

8 MEMBER TULLEY: I'll second.

9 CHAIRMAN TRUNCALE: All those in favor?

10 (Chorus of ayes.)

11 MR. MONTANTE: Thank you.

12 MS. MONTANTE: Thank you.

13 MEMBER HANSON: Good luck.

14 CHAIRMAN TRUNCALE: Is there a motion
15 to close? I'll make that motion.

16 MEMBER TULLEY: I'll second.

17 CHAIRMAN TRUNCALE: All those in favor?

18 (Chorus of ayes.)

19 (Whereupon, the Zoning Board of Appeals
20 was concluded and stood adjourned.)

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

I, Mary Kate Waldron, Court Reporter, within
and for the State of New York, do hereby certify that I
have reported the proceedings, that it is a true and
accurate transcription of my stenographic notes.

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

IN WITNESS WHEREOF, I have hereunto set my
hand this 28th day of November, 2025.

Mary Kate Waldron

MARY KATE WALDRON