

**CITY OF MIDDLETOWN
ZONING BOARD OF APPEALS AGENDA
APRIL 15, 2026 7:00 PM
COMMON COUNCIL CHAMBERS**

Meeting called by: Jim Burtis, Chairman

Clerk: Martina Tu

Members: Wendy Rodrigues, Marc Woody, Tracy Racine, Jim Burtis, Keith Hallock

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES

Accept the Minutes of December 17, 2025

NEW BUSINESS

Request of Orange Terrace, LLC for a 6-month extension of the approved area variances for a 4-lot subdivision located at Orange Terrace, Middletown

ADJOURNMENT

**CITY OF MIDDLETOWN
ZONING BOARD OF APPEALS
MINUTES**

December 17, 2025

A meeting of the Zoning Board of Appeals was held in the Common Council Chambers, Second Floor, City Hall, 16 James Street, Middletown, New York on December 17, 2025 at 7:00 P.M., Jim Burtis presiding.

Members Present: Tracy Racine, Keith Hallock, Marc Woody, Wendy Rodrigues, Jim Burtis

Other Attendees: Sixto Martinez, Building Inspector; Richard J. Croughan, Corporation Counsel

The Pledge of Allegiance was said.

Motion to approve the September 17, 2025 minutes by Mr. Racine, seconded by Mr. Hallock.

Motion passed.

**Sobo & Sobo Holdings
20 Preston Street
Area variance**

Mr. Sobo: Hello. Gary Sobo of Sobo & Sobo obviously.

Mr. Burtis: Excellent.

Mr. Sobo: We are looking to use 20 Preston Street. It's a property that was in existence for a long time. It was used as a body shop for most of its life, and our problem is that it does not have the setback required by today's standards. It is 9.7 feet short.

We'd like to use this as a portion of our law office which is up the street at 1 Dolson Avenue. We're going to put some of our operations in there, and we don't think this would hurt or harm anybody, and as I say, the building is long time existing.

Mr. Croughan: Mr. Sobo, you're actually seeking two variances; right?

Mr. Sobo: Well, I'm looking for the setback, I believe. What is the other one?

Mr. Croughan: Looks like 475-20-F1 on your application.

Mr. Sobo: I'm not sure about that. I'd have to look back on my Planning Board application actually.

Mr. Croughan: Mr. Martinez, do you know what it is?

Mr. Martinez: I'm not familiar.

Mr. Croughan: Because you have -- on your application it has required dimension. It doesn't actually tell me what the actual dimension is.

Mr. Sobo: Let me get the other application.

Mr. Croughan: Sure. Mr. Sobo, I think I got it now. It's the one variance under Section 475-20-F1. Required is 25. Your actual is 15.3, so your request is 9.7.

Mr. Sobo: Correct.

Mr. Croughan: Okay. Got it.

Mr. Sobo: And what do you find about the other one?

Mr. Croughan: No. That's it.

Mr. Sobo: I just started looking for it. Okay.

Mr. Croughan: It's the one. You have it on both lines.

Mr. Sobo: Got it. Okay.

Mr. Burtis: Fair enough. So my understanding is part of the building would be used as office and then parking out front.

Mr. Sobo: Correct, and we also have a plan to put parking on the side of it.

Mr. Burtis: Okay.

Mr. Croughan: But that would be -- he also has an application pending before the Planning Board for site plan, so the Planning Board would deal with parking, how many spots he's permitted.

Mr. Burtis: Fair enough. What I'd like to do next is open the public hearing for this project. Mr. Sobo, if you'd like to have a seat for a moment.

Mr. Sobo: Sure thing.

Mr. Burtis: And I'd like to invite up any members of the public and/or Board members that have anything to say on the topic.

The public hearing was opened.

Mr. Burtis: So again, this is about the applicant, Sobo & Sobo of 20 Preston Street, for an area variance.

Okay. So far we don't have any members of the public in attendance wishing to speak.

Martina, do we have any correspondence related to this topic?

Ms. Tu: No, we don't.

Mr. Burtis: Okay. And do we have the mailings for this applicant?

Ms. Tu: Yes, we do.

Mr. Burtis: Thank you. Now what I'd like to do is move to any of the Board members if you have any questions regarding this topic or comments.

Mr. Croughan: Mr. Sobo, if you can just come back up to the podium a minute and just go through the five factors.

An undesirable changed produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance.

Mr. Sobo: We don't believe so.

Mr. Croughan: The benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

Mr. Sobo: No. It's an existing building.

Mr. Croughan: The requested area variance is substantial. It would be.

Proposed variance will have adverse affect or impact on the physical or environmental conditions in the neighborhood or district.

Mr. Sobo: No. As I say, it's an existing building.

Mr. Croughan: And it's been in use. Do you know when the last time it was used as a body shop?

Mr. Sobo: We've used it for about two years for storage. I would say perhaps five years.

Mr. Croughan: Thank you. The alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

I can answer that for you. It is self-created. You bought it like that.

Mr. Sobo: Right.

Mr. Croughan: So the Board can discuss it. Mr. Martinez, is there any issues?

Mr. Martinez: Presently there are no issues. There's a building permit waiting for the approvals.

Mr. Croughan: Thank you. And like I said before, there is an application pending before the Planning Board. It was referred to the ZBA for the applicant to get the variance before it can come back to the Planning Board.

Mr. Burtis: Fair enough. Seeing no comments from the public --

Mr. Croughan: Invite the public back up one more time.

Mr. Burtis: Okay. So I'd like to invite the public back up to discuss Sobo & Sobo Holdings for their application for an area variance on 20 Preston Street.

Okay. Seeing no other attendees, we'd like to ask for a motion to close the public hearing.

Motion to close by the public hearing by Mr. Racine, seconded by Mr. Woody.

Motion passed.

The public hearing was closed.

Mr. Burtis: I'd like to invite the Board members to pose any questions or comments you have related to this application. Anything? Nothing?

Mr. Croughan: The applicant adequately addressed the five criterion. The Board would then consider granting the variance as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant, and the Board can make that determination. I believe it has enough information with which to do that for tonight's hearing.

Mr. Burtis: I would agree, so seeing no further questions, I'd like to ask for a motion to approve this application.

Motion to approve 9.7 foot area variance under Section 475-20-F1 by Mr. Burtis, seconded by Mr. Hallock.

Roll Call Ayes: Keith Hallock, Tracy Racine, Marc Woody, Jim Burtis, Wendy Rodrigues

Motion approved.

Mr. Croughan: Mr. Sobo, you've been approved, so now you can go back with the approval to the Planning Board for site plan approval.

Mr. Sobo: Correct. Thank you.

Mr. Croughan: Thank you.

Mario Montalvo
40 Adams Avenue
Area variances

Mr. Burtis: If the applicant could just state their name.

Mr. Montalvo: Mario Montalvo.

Mr. Burtis: Okay. And, Mario, if you could just bring us up to date on your application.

Mr. Montalvo: So this is an application for a lot that was previously approved for a single family home that we bought from the previous owner. It had a prior variance approval. It had a building permit, and the previous owner decided to sell it. We bought it, and I would like to build the same exact house that he was approved for with no changes except for the ownership.

Mr. Burtis: Thank you. My memory's a little fuzzy on a garage that was on the property, and it straddled two separate pieces of land. Has that been rectified?

Mr. Montalvo: From my understanding, it was rectified, yes.

Mr. Martinez: Yes. The garage was taken care of.

Mr. Burtis: Okay. Thank you, Sixto.

Mr. Croughan: That means the garage was removed?

Mr. Martinez: The garage was removed and rebuilt.

Mr. Burtis: Thank you. Martina, have the mailings been taken care of regarding this applicant?

Ms. Tu: Yes, they have.

Mr. Burtis: Thank you. At this point, I'd like to open the public hearing related to this application. If the applicant could just have a seat for a few moments, and at this time I'd like to invite members of the public up that might have something to say about the application at 40 Adams Avenue. Welcome.

Ms. Flessa: Good evening.

Mr. Burtis: So please introduce yourself.

Ms. Flessa: So I'm Kathy Flessa. My husband and I reside at 41 Adams Avenue. I've actually resided there my entire life because my parents build that house. So we were at many of the meetings last time when this was going around.

Let me preface this by saying my comments come from a place of concern as the last variance was approved on false pretenses as the last applicant lied about having permission about taking that garage down.

I've never had the need to call City Hall before in my life, but we made numerous calls. I'd like to thank Sixto. I got to know him very well. He was, you

know, always would come down to rectify what was going on.

We've been looking at a hole in the ground for almost two years now because they proceeded with their building without taking that garage down, and it is now down.

It still remains an unsecured construction site. We had made numerous complaints about that. There's still a section of fencing that's still not up on the eastern portion of the property.

Whoever has had ownership of this property has not shoveled the sidewalks on the last several storms.

I'm curious about the approved square footage because when the last owner put it up for sale on one of these public for sale sites, my understanding was the approval was for a home that would have a garage underneath so there would be a place to park cars, but that there would be one single level of, a living level, and I can't remember the exact square footage. It was maybe 1,200 square feet.

The ad that had been placed that this gentleman probably purchased from gave the impression that there could be living area on that first floor which was not to be, you know, per the last approval.

I'm curious if the applicant's going to be living in the house or if it's being built on spec or if it's, you know, anticipated being a rental property.

The property line appears to kind of go through the current owner of 38 Adams Avenue's driveway. She's an elderly woman, and her secondary access to the home is on that driveway side, and I'm just wondering if there'll be a right-of-way for her or the ability for her to still get her car in. Right now, she does have a driveway on the eastern side of her property. She has another lot, but that would be a far reach for her to have to bring any groceries.

So as I said, we just felt a little I guess burned is the right word based on what's been going on there for almost two years now, and we just want to make sure that if this does get approved, that all the rules are followed this time and who's going to be -- I'm assuming that Sixto will be following up very closely on that.

So thank you for your time.

Mr. Burtis: Thank you for your comments, Kathy. I'd like to invite up any other people from the public to make comment on 40 Adams Avenue application.

Okay. Seeing none, I'd like to poll the Board if you have any questions or concerns regarding the project and go ahead and invite the applicant back up.

Mr. Croughan: Mr. Martinez, what's the situation over there?

Mr. Martinez: Presently, there's a footing in place. There's a fence down. I guess I have to go back to check on the fence, and that's about it. All there is is a footing.

Mr. Croughan: There was a building permit so there was a house that was before you with the blueprint?

Mr. Martinez: Correct.

Mr. Croughan: And how many square feet was that proposed house?

Mr. Martinez: I believe it was 1,200 to 1,400. I didn't issue the permit, so I can't remember offhand.

Mr. Croughan: Okay. And there's an underground area for --

Mr. Martinez: There's supposed to be a garage with an unfinished area plus a second story.

Mr. Croughan: And what about on the side as the person from the public raised with respect to where the property line is?

Mr. Martinez: Well, the garage was built on the property line of 38?

Mr. Croughan: No. I'm talking about with the neighbor accessing her home. Is there -- is this house being built within bounds?

Mr. Martinez: It's built within the property lines. Yes.

Mr. Croughan: Thank you.

Mr. Burtis: Thank you. I'd like to start off with a question for the applicant. Do you have a plan for the home as far as are you going to live there, sell it?

Mr. Montalvo: Yes, I am.

Mr. Burtis: You're going to live there. Thank you. And would you like to respond to any of the comments or questions that have come up?

Mr. Montalvo: Yeah. As far as the neighbor, Cheryl I believe her name is, I spoke with her, and there will be no problem with her getting into her driveway as the house is, you know, is going to be way off to the side, not -- I mean, the property line probably goes into her driveway, but we have no plans of doing anything because you can't because of the setbacks.

Mr. Burtis: Thank you. I'd like to invite the Board members to ask any questions of the applicant that you may have.

Mr. Racine: Question. Are you going to retain the foundation that's already in there, or are you going to pull that out and put in another one?

Mr. Montalvo: So I had a conversation with the Building Inspector, and he shared that everything was done according to code and properly, so I will use the same footings. Yes.

Mr. Racine: The reason I ask is in your packet, it said there was a certain tensile strength for the concrete and just don't want to get burned again because I can't take that man's word that he actually did that properly. Do you have any kind of paperwork or documentation that says it's to spec.

Mr. Montalvo: Well, yes. All of these things have to be inspected by the Building Inspector, and for it to move forward, it would have to be approved.

Mr. Racine: You are going to live there.

Mr. Montalvo: Yes, sir.

Mr. Racine: For a period of?

Mr. Montalvo: As long as the Lord will have me there.

Mr. Racine: Okay. Good answer.

Mr. Croughan: Mr. Martinez, with respect to the foundation, is there any concern?

Mr. Martinez: Presently, there's no concern. It's sitting on solid ground. It was poured. It was inspected. It was per the drawing.

Mr. Croughan: Thank you. Just to run through the factors, I know that this was approved before by this very Board, but an undesirable change produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. I imagine that there's other single family homes in the area, so there's no real change.

The benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance. Properties are tight

there, so you're not able to buy another neighbor's portion to make it conforming.

The requested area variance is substantial. It's not really substantial. It's 1.54 on the 100-foot required and lot coverage or lot area is 5,000. That's 4,923, so seeking 77, so they're both de minimis.

Proposed variance will have adverse effect or impact on the physical or environmental conditions in the neighborhood. How would you like to respond?

Mr. Montalvo: That's, I'm sorry, what number?

Mr. Croughan: That's D.

Mr. Montalvo: D.

Mr. Croughan: The proposed variance will have adverse effect or impact on the physical or environmental conditions in the neighborhood.

Mr. Montalvo: Okay. The variance will not have any adverse effects in the neighborhood since it's a one family home.

Mr. Croughan: Well, we're talking about the physical or environmental changing topography, but I imagine you've had the foundation in and everything has gone okay since you've done that.

The last is the alleged difficulty was self-created. Obviously, the answer is yes. You bought it with it being a substandard lot.

The duty of the Board is to take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood community by such grant taking into consideration the five factors as we just went over.

Mr. Burtis: Tracy?

Mr. Racine: The last applicant wanted us to know that he would not take down any trees and wouldn't change the topography of the lot. First thing he did, he ripped out a chain saw and he took down a tree. Now, the last -- I had a canary about that, and the last Building Inspector made a deal with him that said that he would install three additional trees on that property, larger trees, not saplings, because of it being a very wet area. Are you aware of that?

Mr. Montalvo: I am not.

Mr. Racine: Okay. That being said, would you conform to do the same thing?

Mr. Montalvo: Yes, sir.

Mr. Racine: Okay. Thank you.

Mr. Burtis: Okay. Keith.

Mr. Hallock: There's a sidewalk currently in front of the house now?

Mr. Montalvo: Yes, sir.

Mr. Hallock: And you know that you need to maintain that?

Mr. Montalvo: Yes, sir.

Mr. Hallock: That means shovel the snow when it snows and all that. And the fence, you're going to take care of that?

Mr. Montalvo: Yes, sir.

Mr. Hallock: Okay.

Mr. Burtis: Okay. I'd like to break out to the audience and see if there's any remaining folks that have comments about this application. Okay. Anyone? I feel like Bueller here.

All right. Seeing no other members of the public stepping forward, I'd like to go back to our Board members and counselor.

Motion to close the public hearing by Mr. Woody, seconded by Ms. Rodrigues.

Motion passed.

The public hearing was closed.

Mr. Burtis: The public hearing is now closed for the application at Adams Avenue. What I'd like to do is turn it over to the Board for any other discussion or questions that you may have.

Mr. Woody: I have one question.

Mr. Burtis: Yes.

Mr. Woody: Can we get a little bit more detail, sir, on this downed fence. I don't have any details on that, so I just want to understand more about this fence that's down and what circumstances led to that fence being down.

Mr. Montalvo: So I haven't been back there in about two weeks approximately. I know I had received a call that the fence was down. I fixed it. I put it back up. I don't know, but I can check first thing in the morning, make sure that it is up. So, yeah. We'll take care of it.

Mr. Woody: It's the length of the property? You haven't been there, but is it the length on the sidewalk? Is the length of the property?

Mr. Montalvo: Yes. It's the front and the sides.

Mr. Burtis: All right. Any other Board members with questions for the applicant? No? All right.

Mr. Croughan: So the only thing I would say is there's an application for a variance for the lot area of 5,000 and the 100 foot.

In addition to that, as Tracy brought up, there's three trees that we've asked the applicant, so that can be part of the motion as well, three adult trees to be added.

And, Tracy, is there an area that we could define as where those trees should be added?

Mr. Racine: To be perfectly honest, after that house is built, I don't think there's going to be room for them. That's why I was against it from the beginning. They're shoehorning a house in, and I don't see where you could plant those trees unless you planted them between the sidewalk and the curb from the plans that I've looked at.

Mr. Croughan: Sir, is there an area that you're able to put the trees in?

Mr. Montalvo: I'm sure either in the back or probably -- can I get the survey just to check?

Mr. Croughan: Mr. Martinez, are you aware of an area that we would be able to get those trees in?

Mr. Martinez: I was not aware about the trees, but I can look into it.

Mr. Croughan: But the Board can make it a condition if that's what the Board chooses.

Mr. Montalvo: So I do see that there is plenty of space in the back, even the front, so I can gauge, if there's no specific place where the trees have to go, I can probably gauge it and possibly put two in the back and one in the front.

Mr. Croughan: Okay. Would the Board be comfortable with that?

Mr. Hallock: There are different types of trees that don't grow really big, so maybe we could put a -- that he could use his own judgment on the type of tree so that it doesn't overtake the property in the future.

Mr. Burtis: I'd be open to that. Any other comments related to the trees on the property? Okay. Hearing none, any other comments related to this project by Board members?

Mr. Racine: I just don't see where those trees can go.

Mr. Montalvo: Can I share this with Mr. Tracy?

Mr. Burtis: Sure. If you want to take a look at it, then just pass it around.

Mr. Racine: It's hard to see from what's there right now.

Mr. Burtis: Where was the original tree, Tracy?

Mr. Racine: Right in the middle of that foundation.

Mr. Burtis: According to the plan, it looks like you have about 30 feet in front of and behind the house, so that would yield a front yard with parking and backyard with grass or whatever ground cover you have.

Mr. Montalvo: Trees. Yes.

Mr. Burtis: Okay. Fair enough. Tracy, would you like to make a motion on this? No? Okay. So, counselors, is it okay if we put a stipulation for three trees?

Mr. Croughan: Sure.

Mr. Burtis: Okay.

Mr. Croughan: So the motion pending before the Board would be for an area variance of 77 feet, an area variance of 1.54 with a request that the applicant plant three trees on the yard.

Mr. Burtis: Fair enough. So that's the motion that I would like to make, and I'd be looking for a second on that motion.

Motion to approve area variance for 40 Adams Avenue area variance of 77 feet, an area variance of 1.54 with a request that the applicant plant three trees on the yard by Mr. Burtis, seconded by Mr. Hallock.

Roll Call Ayes: Keith Hallock, Marc Woody, Jim Burtis, Wendy Rodrigues

Roll Call Noes: Tracy Racine

Motion passed.

Sen Wang
4-8 Franklin Street
12-14 Union Street
Area variance

Mr. Burtis: I'd like to invite the applicant up. If you could just please state your name and give us an overview of your area variance request.

Mr. Wang: My name is Sen Wang. I'm purchasing the property located at 4-8 Franklin Street, and I'm proposing to build a beautiful building on a lot.

There are a few restrictions of the zoning requirement on the lot such as the lot size requirement of one acre.

Mr. Croughan: Just speak loudly and into the mic.

Mr. Burtis: Feel free to lift up the microphone and please speak closely to it so we can hear you.

Mr. Wang: Sure.

Mr. Burtis: Thank you.

Mr. Wang: So a few requirements like lot size requirement minimum one acre and also lot coverage a certain percentage I believe is inherited from UR-3 zoning requirement which was before DMU established. I think it's not fair for the development of DMU area currently, and very few lots are more than one acre in DMU, and a lot of buildings are occupied almost 100 percent of the lot, so I'm seeking approval for this area variance on the application.

Mr. Burtis: So you're proposing a five story building on that project; correct?

Mr. Wang: Yes.

Mr. Burtis: Fair enough.

Mr. Croughan: And the matter is pending before the Planning Board for site plan approval referred here. Initially, there was additional variances that were going to need to be requested, but those have now been streamlined into two, the lot area of one acres where the applicant is at .885 seeking a variance of .115, and the lot coverage where the applicant is at 23, required is 20, so he's 3 percent.

So those are the only two variances that the applicant is requesting at this time.

Mr. Burtis: Fair enough. I'd like to ask any Board members if you have questions of the applicant.

Mr. Croughan: Just before we do that, Martina, do you have the mailings?

Ms. Tu: Yes, we do.

Mr. Croughan: Thank you.

Mr. Burtis: Okay. Thank you, Martina. I'll go ahead and move back to Board members if you have any questions of this application.

Okay. Hearing none, I'd like to move to open a public hearing. Do we have a motion to open a public hearing for this application?

Motion to open public hearing by Mr. Racine, seconded by Mr. Woody.

Motion passed.

Mr. Burtis: If you could, please have a seat for a few moments. We're going to

invite up members of the public that have comments related to this project or request. Okay. See no members of the public, we'll go back to the Board, ask if you have any questions or comments related to the project or questions about the application.

Mr. Croughan: Mr. Martinez, there's a building on the site that I believe was going to be condemned maybe or --

Mr. Martinez: Yes. I have sent a violation to the owner. There is a -- I asked for something from an engineer stating about the condition of the building. It seems to be leaning towards the building adjacent to it, so we're just waiting on that.

Mr. Croughan: So there's currently a violation on the property?

Mr. Martinez: Yes.

Mr. Croughan: Thank you. Mr. Wang --

Mr. Burtis: Please come forward.

Mr. Croughan: -- are you aware of the violation on the property?

Mr. Wang: Yes, I am.

Mr. Croughan: And are you addressing it?

Mr. Wang: Because I'm purchasing still, I'm not owning the building, so this should be addressed by the current owner.

Mr. Croughan: Okay. So that needs to be addressed, but there is a site plan pending before the Planning Board, and the Planning Board obviously will be addressing it as well. So this Board can grant the variance.

Just going through the factor test, an undesirable change produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance. There exists a building there, and the applicant is trying to make the most of what he has there.

The benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance. The applicant wouldn't be able to do that.

The requested area variance is substantial. It's .115 and 3 percent, so it's not substantial.

The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood. There's already an existing building there.

The alleged difficulty was self-created. Yes, it was.

So the Board should take all these factors into consideration whether the granting of the variance as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant.

Mr. Burtis: Fair enough. So I'd like to ask any members of the public that might be here this evening if you have comments related to this project to please step forward to the microphone.

Motion to close by the public hearing by Mr. Hallock, seconded by Mr. Racine.

Motion passed.

The public hearing was closed.

Mr. Burtis: I'd like to move to the Board members and counsel if you have any last statements regarding this project. None? Okay.

Mr. Croughan: So pending before the Board is a lot area variance and a lot coverage variance.

Mr. Burtis: Fair enough. So I'd like to ask for a motion on this application to approve the applicant's request.

Motion to approve area variance for 4-8 Franklin Street and 12-14 Union Street by Mr. Racine, seconded by Ms. Rodrigues.

Roll Call Ayes: Keith Hallock, Tracy Racine, Marc Woody, Jim Burtis, Wendy Rodrigues

Motion approved.

Hisham Jamal
366 North Street
Sign variance

Mr. Jamal: How are you?

Mr. Burtis: Good. How are you?

Mr. Jamal: My name is Hisham Jamal.

Mr. Burtis: Nice to meet you, Jamal. I understand that you have sign variance request in with us.

Mr. Jamal: Yes.

Mr. Burtis: Would you like to tell us about that?

Mr. Jamal: I have pictures here.

Mr. Burtis: Yeah. We have pictures of --

Mr. Jamal: Oh, you do?

Mr. Burtis: Yes.

Mr. Jamal: Okay.

Mr. Burtis: So is the sign preexisting or did you install it?

Mr. Jamal: I installed it.

Mr. Burtis: Okay. Before you installed it, did you contact the City or look up any regulations?

Mr. Jamal: I took it down. Sixto told me to take it down. I brought it down. I made an appointment to come here, and I'm here.

Mr. Burtis: Okay. Fair enough.

Mr. Croughan: Can you explain all the conditions that required the variance to be issued?

Mr. Jamal: Like?

Mr. Croughan: What's unique about your situation that you're asking for this variance?

Mr. Jamal: It's just attention for the street. I'm trying to bring some customers in.

Mr. Croughan: Okay.

Mr. Jamal: (Inaudible) \$50 a day now, so it's not working out.

Mr. Croughan: Under Section 394, sub 12, wall signs, you have a corner structure; right?

Mr. Jamal: Yes.

Mr. Croughan: Where an establishment is a corner structure with 20-foot frontages, up to 20 square feet of sign would be permitted in each frontage. Wall signs shall not cover wholly or partially any wall opening including doors, fire escapes, and windows.

My understanding is your sign is 4 feet by 24 feet?

Mr. Jamal: Yes.

Mr. Croughan: So --

Mr. Jamal: One side is 4 feet by 24. The other side is --

Mr. Croughan: Well, the footage would be 25, so what you would be permitted under the code is a 25-foot sign, and it seems like you almost have 100 square feet of sign, so you're requesting a 75-foot variance.

And then on the side, I believe it's 4 feet by 8 feet where you would be permitted to have an 8-foot sign. You have 24 square feet or 32 square feet of sign. So again, you're asking the Board for 24 square feet of a variance, both which would be substantial, one being 75 percent, the other being 66 percent.

Martina, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Croughan: Thank you. You might want to open it up to the public.

Mr. Burtis: So at this time, I'd like to invite members of the public that have comments regarding the application at 366 North Street for a sign variance to please come forward to the microphone.

The public hearing was opened.

Mr. Burtis: Do we have any members of the public interested in speaking on this application at 366 North Street? No members of the public. No elected officials stepping forward.

Do we have any comments from Board members?

Mr. Croughan: Mr. Martinez, what can you tell us about this?

Mr. Martinez: Like I said, the sign is definitely -- the one is 25 by 48, and the other one is 6'3" by 48. Originally I believe it was 24 square feet on the front and I believe the same on the other side.

Mr. Croughan: Are there additional signs on the property other than these two?

Mr. Martinez: Yes. He has the wall painted. I believe it's red paint that says deli and all kinds of writing on the wall also.

Mr. Croughan: All which would not be permitted?

Mr. Martinez: Correct. It's a sign.

Mr. Burtis: And just back of the napkin math here, I see that we're about three times over the limit for sign square footage I guess you could say.

Mr. Martinez: Correct.

Mr. Burtis: All right. Is most of the businesses in that neighborhood within the normal parameters of the code?

Mr. Martinez: Most of them, yes.

Mr. Burtis: Okay. Mr. Woody?

Mr. Woody: Yes, sir. How are you?

Mr. Jamal: How are you, sir?

Mr. Woody: I'm always applauding anybody in Middletown trying to get more business, so to that end, I wish you well.

My question to you specifically is what we have on the Board is this picture here. Now, we don't have the benefit of real time. Is what we're looking at actually what you have right now, because I don't know if we have the --

Mr. Martinez: This sign has been removed.

Mr. Woody: So this is not up to date.

Mr. Martinez: Correct.

Mr. Woody: Okay. So is that how it looks now, sir?

Mr. Jamal: That's how it looks now.

Mr. Burtis: So I'd like to go back to the public if there's any other questions or comments regarding the application for a sign variance at 366 North Street.

Hearing none, I'd like to call for a motion to close the public hearing related to the sign variance request at 366 North Street.

Motion to close public hearing by Mr. Hallock, seconded by Mr. Woody.

Motion passed.

The public hearing was closed.

Mr. Burtis: Now we'll move on to the members of the Board, the counselors, and Sixto if you have any questions of the applicant.

Okay. All right. So we appear to be at the point where we have to call the question would anyone like to make a motion to approve the request of the applicant for a sign variance at 366 North Street?

Mr. Croughan: Just before you do that to the Board. You can make a motion and vote on the motion, and if the motion is approved, you can then either approve or disapprove the variance. You can not make a motion, which would be a denial, or you can make the motion, vote on it, and then if everyone votes or majority vote in favor, then it would be approved. So those really are your three options.

Mr. Burtis: Thank you. Sixto, do you have anything to add?

Mr. Martinez: If I may, the smaller sign, you may be able to get away with it, so instead of putting both signs up, he might be able to just put up the smaller sign.

Mr. Burtis: Okay.

Mr. Croughan: But if he put up the smaller sign, would he need to come to the Board for approval?

Mr. Martinez: (Inaudible).

Mr. Croughan: So you understand that, that if you took the smaller sign, put it on the larger window, it looks like it would be within what's permitted if you wanted to go that route, and you wouldn't have to seek any type of variance from us.

Mr. Jamal: But there's no way I can put the front one.

Mr. Croughan: Well, there may be. The Board still has to make a decision on that.

Mr. Burtis: We have these guidelines and regulations that the City and all of us through collective generations I guess you would say came together as far as a common standard, and your request is about three times greater than the common standard that is written into the current rulebooks.

So if you like, we can certainly bring this to a vote and see where that goes; however, there is an option before you if you would like to take your smaller sign, which would be within the current parameters of square footage requirements, use that sign on your storefront, if you would like. If not --

Mr. Croughan: I'm sorry. It wouldn't hurt the applicant for the Board to make a decision because he could then take the smaller sign by rights and put that up. So really, it's, you know, the Board has to make a decision, then the applicant can decide what he wants to do.

Mr. Burtis: Fair enough. Tracy?

Mr. Racine: Does the brick have to be painted back, or can he still retain that wording on the brick?

Mr. Croughan: Mr. Martinez?

Mr. Martinez: It's considered a sign.

Mr. Croughan: So he would have to return it.

Mr. Martinez: Correct.

Mr. Woody: I have a question.

Mr. Croughan: But is there a violation against him to have to do that?

Mr. Martinez: Not presently.

Mr. Croughan: Will there be?

Mr. Martinez: Could be.

Mr. Burtis: Mr. Woody?

Mr. Woody: So my question is just being a former marketing executive, just so I'm understanding you 100 percent, the reason for the variance and the reason for the length of the sign is to attract more business.

Mr. Jamal: Attract customers.

Mr. Woody: Right.

Mr. Jamal: We've been closed for two years, that corner.

Mr. Croughan: Just talk loudly and into the mic, sir.

Mr. Jamal: It's been closed for two years before me.

Mr. Woody: Right.

Mr. Jamal: So I was just trying to attract customers.

Mr. Woody: Yeah. You know, in my opinion, it's, again, there's a way. I mean, I knew the sign prior to this, and without even asking for a variance, maybe there's a way to get customers as opposed to being in front of the Board and the extension. It's a bit much for that area, but I just wanted to be very clear as to it's squirrely for just to attract more business, which I understand completely. I just wanted to

ask you that. Thank you.

Mr. Croughan: So the motion pending before the Board or to be made would be for a variance to grant the front and side variance sought by the applicant.

Mr. Burtis: Any further questions by Board members before we make this a motion? No further questions.

Motion to approve sign variance at 366 North Street by Mr. Burtis, seconded by Mr. Woody.

Roll Call Noes: Keith Hallock, Tracy Racine, Marc Woody, Jim Burtis, Wendy Rodrigues

Motion declined.

Motion to adjourn at 8:00 p.m. by Mr. Hallock, seconded by Mr. Racine.

Roll Call Ayes: Keith Hallock, Tracy Racine, Marc Woody, Jim Burtis, Wendy Rodrigues

Motion passed.

Respectfully Submitted,

Diane Genender, Transcriptionist

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Alfred A. Fusco, III
General Manager

February 26, 2026

City of Middletown
Mayor Joseph DeStefano
16 James Street
Middletown, NY 10940

RE: 2-7 Orange Terrace
Section 33, Block 4, Lots 2-7
City of Middletown
Our File #21-054E

Dear Mayor DeStefano,

We respectfully request an extension of the variances previously granted for the above-referenced properties.

On March 20, 2024, the Board approved variances for four (4) lots to allow a front yard width of 72.3 feet, representing a 2.9-foot or 3.9% variance from the required standard. A six-month extension of these variances was subsequently granted.

Due to ongoing project planning and coordination efforts, we are requesting an additional extension to allow sufficient time to proceed with development in accordance with the approved variances.

We appreciate your continued consideration and support, and we are committed to ensuring that the proposed development complies with all applicable zoning and land use regulations.

Please let us know if any further information or documentation is required to process this request.

Please advise if you have any questions.

Very truly yours,

Alfred A. Fusco, Jr., P.E.
Fusco Engineering &
Land Surveying, D.P.C.