ZONING BOARD OF APPEALS

REGULAR MEETING

OCTOBER 13, 2026 – 5:00PM (REMOTE)

1. Call to Order. The meeting was called to order at 5:00pm.

2. Seating of Members & Alternates. Present: M.E. Freeman, Peter Menikoff, Lee Greenhouse, Harding Bancroft (Alternate), Miles Todaro (Land Use Tech Specialist), Michael Lucas (Land Use Coordinator) and Georgia Petry (Recording Secretary). Absent: Cori Daggett and Roxanne Belter. H. Bancroft was seated as a Voting Member.

3. Approval of Agenda. M. Todaro asked that Michael Lucas, Salisbury's new Land Use Coordinator, be allowed to introduce himself. Mr. Lucas briefly introduced himself, mentioning that he had been in Land Use for New Hartford, CT, for the last 8 years; he lives in Amenia, NY, and is a regular member of the ZBA in Amenia.

4. Public Comment – None

5. **Minutes of September 8, 2026. Motion to Approve** made by L. Greenhouse, seconded by H. Bancroft, **With All in Favor**.

Public Hearing

6. #ZBA-26-2 / 288 Twin Lakes Road / Map 63, Lot 07 / Owner: Jodi Luby / Applicant: Christopher Lancto / request for variance of sections 304 and 300.2 to expand a nonconforming structure in the side yard setback / DOR: 09/08/2026

   The Public Hearing was opened at 5:05pm. L. Greenhouse read the Legal Notice, which appeared in the Lakeville Journal, October 1 and 8, 2026. M.E. Freeman asked for a summary of the application. Attorney Anthony Palumbo, representing Ms. Luby, described the request for the variance; the owner wants to increase the size of the existing garage on an undersized lot which is long and narrow and has other restraints. P. Menikoff commented that he had read Attorney Palumbo' letter of request and asked Ms. Luby how long she has owned the house; Ms. Luby answered 27 years. P. Menikoff asked why it is a hardship, if you can live on the property. Attorney Palumbo responded that it's a hardship because the garage can't be used as it is; it needs to be enlarged. Attorney Palumbo noted that they had received a letter in support of the application from one of the abutters. M.E. Freeman commented that it is a small lot; P. Menikoff questioned if that is a hardship. L. Greenhouse asked if there is anything unique, with regard to this property. Attorney Palumbo mentioned there are many factors which make it unique, such as pre-existing things that prevent other locations and that the garage can't be moved because of the well,

the soils, and the septic reserve area, also. Ms. Luby commented that it will not be a car garage; it will become an art studio and guest bedroom. P. Menikoff asked why it can't be built on the existing 20' site; Ms. Luby responded that the increase is needed for function. P. Menikoff asked about the safety issue cited in Attorney Palumbo's letter; Mr. Palumbo answered that the owner is asking for the reasonable use of her property, which pre-existed zoning regulations. M. Lucas asked if the existing building was going to be taken down; Ms. Luby answered yes. P. Menikoff asked if a variance would be required if the owner was going to rebuild on the same footprint; Attorney Palumbo answered no. M. Todaro clarified that this plan includes a horizontal expansion within the setbacks, which is not allowed by Zoning Regulations; this would be expanding a non-conforming building within the side yard setback and the proposed expansion would slightly increase the encroachment into the 30' setback. H. Bancroft commented on the past use and proposed use of the building. M. Todaro explained the Public Hearing process and pointed out that 4 votes are required for approval; that would mean a unanimous vote, if they vote at this meeting. M. Lucas explained that with a full quorum of 5 members, an approval would also require a majority vote of 4 members. There was discussion about the procedure to follow and how the applicant could re-apply, if this application is denied. Ms. Luby indicated that there was no further information to add. M.E. Freeman asked M. Todaro about receiving other information; M. Todaro explained that the Public Hearing is the information gathering phase when the record is established, as long as the Public Hearing is still open, new information could be received until the Public Hearing is closed. M.E. Freeman suggested that if the members expressed sentiments, that could be new information for the applicant. H. Bancroft commented that it (the proposed work) was minor and he leans in favor of it. M.E. Freeman commented that it was de minimis and would be an improvement. L. Greenhouse commented that there is a unique hardship because of the combination of restrictions on this property and would approve on that basis. P. Menikoff asked Ms. Luby if there was any discussion about creating the type of building she wants within the existing footprint; Ms. Luby responded that the existing 20' x 20' would not accommodate what she wants to have there. H. Bancroft asked if the building could be 20' x 28' instead; Ms. Luby responded no, it would change the sight lines for the main house, would ruin the aesthetic of the property, and be too close to the well. P. Menikoff commented that this plan is asking to expand the non-conforming offset a little more. H. Bancroft commented that there would likely be no challenge, if approved. Attorney Palumbo suggested that there would be no real impact to the neighbors. P. Menikoff asked to have discussion among the Commissioners; M. Todaro noted that the Public Hearing would have to be closed to have a Commission discussion and while they don't have to take a vote, only those 4 members would be voting on the application. M. Lucas commented that if the Public Hearing stays open, a Commissioner who didn't attend this meeting would need to watch the recording; the materials would be reviewed; the Public Hearing could then be closed; the matter would be discussed; the vote would be taken, with 4 affirmative votes required. Commissioners would have to be seated at the Public Hearing to be able to vote. M. Lucas pointed out that if the request is denied without prejudice at this meeting, Ms. Luby can re-apply with the same information. M.E.

Freeman commented that it would be Ms. Luby's choice to re-apply, if the request is denied without prejudice at this meeting. A **Motion to Close the Public Hearing** was made by L. Greenhouse, seconded by P. Menikoff, **With All in Favor**. The Public Hearing was closed at 6:04pm. No new information will be submitted for the record.

Commission Discussion:
P. Menikoff commented that this (request) opens the ZBA to not being able to turn down anything; they can only approve what rises to the level of a hardship. P. Menikoff noted that this is a non-conforming property which is already over the offsets and there are offsets for a reason; there must be a true hardship to approve. M.E. Freeman countered that the ZBA has and can say no. If the argument is the location of the well, P. Menikoff commented that there was no reference to the well in the letter from Attorney Palumbo. L. Greenhouse asked if there could be a compromise plan, between what is allowed and what is desirable. There was discussion about the concept of hardship, with differing opinions. P. Menikoff expressed that it the standard they are bound to; the ZBA does not write laws and are bound by the Statute that exists. M.E. Freeman commented that other towns interpret the definition of hardship differently; L. Greenhouse commented that they do have to abide by the law. M.E. Freeman commented that hardship isn't defined and can be interpreted; P. Menikoff disagreed. L. Greenhouse commented that the basic tenant of the law is that hardship is defined by the unique characteristics of the property, not how far over a line one goes or by what one is planning to do; all uses have the same standing. L. Greenhouse further commented that P. Menikoff is correct in that they can't bust the zoning laws every time because then there would be no zoning laws. L. Greenhouse added that he feels there is enough on this property that is problematic to call it a hardship; M.E. Freeman agreed. P. Menikoff suggested the owner re-visit the plan to come up with a building that doesn't further encroach on the offsets.

A Motion to Approve, Without Prejudice, #ZBA-26-2 Request for Variance, was Made by M.E. Freeman and seconded by L. Greenhouse. 3 Members Voted in Favor, 1 Member was Opposed. **The Motion to Approve Failed, therefore, it was Denied Without Prejudice.**

P. Menikoff asked what the next step is on this issue; M. Lucas responded that the owner may choose to re-apply or not. It would be treated as a new application; if the application is received early enough, there could be time to get the Legal Notices published twice before the scheduled meeting, in order to include a Public Hearing. For the record, P. Menikoff explained that he voted to Deny the Request because there wasn't a justification for hardship, as he understands the CT Statute is interpreted.

Adjournment. So Moved by L. Greenhouse, seconded by M.E. Freeman, **With All in Favor**.