



CORBALLY, GARTLAND
AND RAPPLEYEA, LLP

Since 1876

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February 16, 2023

Hand Delivery

Town of Washington Zoning Board of Appeals
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Millbrook, New York 12545

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Re: Yadgard Area Variance Application dated 1/17/23

Dear Chairman Parisi and Zoning Board Members:

We represent James C. Cornell, Jr. and Lea Cornell, whose home and property adjoin that of the applicant. On behalf of our clients, we oppose these variance applications, for the reasons that follow.

There are a number of factors the Board must consider with an application like this, which I address below. The factors listed are not necessarily in the order set forth in the law, but I have noted them in what I believe may be the order of significance.

1. The Difficulty Requiring the Variance was Self-Created

The answer is yes, because the applicant was fully aware well before purchasing the property that the Cornells opposed a pool being built so close to their home.

Before purchasing their property at 610 Stanford Road during May of 2022 the Yadgards knew a variance would be required to construct a pool behind their rear yard patio. Emails sent to the Cornells by the Yadgard's real estate broker on February 24, 2022 and by Daniel Yadgard on February 26, 2022, annexed hereto as Exhibit 1 confirm this fact, unequivocally.

The Yadgards knew a side yard variance was needed, they knew the Cornells were opposed to it, and they knew that the ZBA has declined to grant the Cornells with a similar side yard variance because the former owner of their house had objected to it.

This owner argued that granting a variance to the Cornells would obscure his view and negatively impact his property value. The Cornell's architect's letter dated January 13, 2023, relating his view of the proceedings and denial, is annexed as Exhibit 2.



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In his February 25th email Daniel Yadgard informed the Cornell's that "[h]aving a pool is a must for our weekend home and we would not purchase a house without the ability to have one. I therefore just wanted to confirm that we would have the ability to build one on this plot. I quickly found that per zoning in this area we would most certainly require a variance." This was written *three months* before he closed on the property. The Cornells notified the Yadgards in two separate emails that they would oppose a side yard variance for a pool if they decided to seek one. In spite of all the facts suggesting a variance along this common boundary would be very unlikely, the Yadgards proceeded to contract for and then purchase this non-conforming lot.

The Yadgards were not required to buy this property, and logic would dictate that they purchase one that either already had a pool, or did not require variances to build one. They nevertheless proceeded with the purchase and the difficulty they claim to be facing was created entirely by their voluntary purchase.

Annexed as Exhibit 3 is a color copy of the map from Parcel Access, showing how close the two homes are to one another, and showing the site conditions as they existed when the Yargards elected to purchase. Seeing this, no one could reasonably conclude that a pool so close to the Cornells home would be desirable.

I would also like to point out to you that at the hearing in November, 2022 regarding the now vacated variances, the ZBA asked the Yadgards if they had spoken to the Cornells about this. They responded "no". While they had not spoken, the Yadgards certainly knew, and acknowledged in an email to the Cornells, that they knew the Cornells were opposed to a pool being located in the back yard of 610 Stanford Road. The Yadgards clearly neglected to inform the ZBA of the true nature of the communications. This neglect was, at best, evasive.

2. The Requested Variances are Substantial

The parcel has four sides, and three variances are being requested on two them, which in and of itself is substantial. The sheer number of required variances confirms this.



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The Yadgard's application requests a 40 foot rear yard variance. This is greater than half the required set back, and even more when the paving around the pool and fence are considered. While this boundary does not adjoin the Cornell's, they are affected by it, because the proposed pool's proximity to the rear boundary pushes it closer to them. This rear boundary is also very close and in the Cornell's plain view.

Second, and again not counting paving or fencing, the proposed pool requires a second variance along the Cornell boundary, of approximately 13 feet, or greater than 10% of the required side-yard setback.

Third, the proposed pool's equipment requires 43 feet, or greater than 40%, of the required side-yard setback. The pool without the equipment has no use, so the reality is that the actual necessary variance for the use is nearly half of the set back.

All of these requested variances are even more substantial when considering that the Cornell's home, which was built decades ago, is located only 15 feet from the common property line (see Exhibit 3). If the variances were granted, the pool would only be 102 feet from the Cornell's house and the pool equipment would be 72 feet.

The collective requested variances are so substantial that the requested pool requires relief on two of four boundaries and, in both cases, intrudes near or over 50% of the required setbacks. The noise and activity that comes with a pool would essentially project the pool into the Cornell home, and "shoe-horn" the pool into where it does not belong.

3. The Requested Variance will Cause an Undesirable Change to the Neighborhood and be Detrimental to the Cornells

This point is corroborated when considering a very similar side yard variance application involving the same property line.

In 2021 the Cornells applied to the ZBA for a variance, from the common boundary now at issue, to extend their existing garage. This request was denied, primarily if not exclusively, because the then-owner of the Yadgard home opposed it as detrimental to his property value, his peace and quiet, and



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its impact on his view. See Exhibit 3. The Cornells understood this and accepted your decision. A copy of the variances that were granted, with this one stricken out, is annexed as Exhibit 4.

These same facts warrant the denial of this application, perhaps even more so. In the Cornell's case, they were proposing to extend an existing structure closer to the boundary. Here, however, the Yadgards are proposing an entirely new use and new structure, which will bring unwanted noise, light and other factors which detract from peace and quiet.

This area of the Town of Washington is zoned RR-10. There are no pools that required a variance in this immediate area. The pools that do exist are well within the set backs required by the zoning regulations.

There is also evidence that such a pool will negatively impact property values, which I will address at greater length and provide evidence of in the hearing.

4. The Benefit Sought by the Applicant can be Achieved
Without Variances

In their application the Yadgards claim that "There is no alternate location to place a swimming pool in the backyard." This is false.

Daniel Yadgard sent the survey annexed as Exhibit 5 to the Cornells on February 25, 2023. He highlighted in blue the area where he wanted to site a 30'X15' pool (not the 40'X18" he is currently seeking). However, we refer you to the area where the white 30'X15" pool could be situated on this survey. This location does not require any variances. The fact that this site might not be as convenient, or result in additional costs, should not be a factor when considering that an alternative exists which is far less impactful.

5. The Requested Variances will Adversely Affect the Physical and
Environmental Conditions in the Neighborhood

The application states that the "pool will not be visible from or disrupt the neighboring properties". This is also false.



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As the Board knows, the Cornell's house is only 15 feet from the boundary and the Yadgard's house only 50 feet from that boundary. Annexed as Exhibit 6 is a copy of a photo taken on the Cornell boundary of the proposed pool site. The pool location can be easily seen. This close proximity will bring unwanted noise and light pollution and will generally interfere with the Cornell's "comfort, peace, and enjoyment" of their property.

In addition, as the Cornells will further elaborate upon, pool equipment is very noisy and is on 24/7 for many months of the year. It is also unsightly. The proposed equipment would be only 65 feet from the Cornell's house. Pool parties usually take place in the evening and that requires lighting. Bright lights would be visible from the Cornell's house.

Pools also require a great deal of water. The proposed pool would require 32,000 gallons of water and would need to be regularly topped off to compensate for evaporation and back washing. The water table in the Stanford Road area is notoriously light with wells going dry a common occurrence, particularly this past summer. The proposed pool would only strain the existing water resource and could impact the Cornell's well in particular.

In King v. Town of Islip Zoning Board of Appeals, 68 A.D3d 1113, 1115 (2d Dep't 2009), the Appellate Division, Second Department, reversed the trial court and upheld the zoning board's decision to deny a variance for a pool. The Court observed that "... the evidence before the ZBA supported the rational conclusion that granting the proposed variance would produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Additionally, the ZBA was entitled to consider the effect its decision would have as precedent. Moreover, the ZBA's conclusion that the variance was "substantial" was rationally based. Further, the conclusion of the ZBA that any hardship was self-created was rationally based".

King is uniquely applicable here. The ZBA there rightfully determined that the variance for a pool should be denied because the many factors to be considered did not support the application. That is exactly the case here.



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Conclusion

The proper consideration of the relevant factors weighs very strongly in favor of denying all requested relief. First, the applicants knew three months before they contracted that variances would be required to build a pool, and that the Cornells were opposed to a pool being built so close to their house. Second, the variances being sought are substantial. If granted, the pool and its equipment would be 102 feet and 65 feet from the Cornell's house, respectively. Third, the applicants were fully aware that the ZBA has denied the Cornells a side yard variance in a very similar application, and attempted to trade their approval for the Cornell's garage extension in return for the Cornell's approval of their pool.

Fourth, the applicants have falsely claimed that "[t]here is no alternate location to place a swimming pool in the backyard." In fact there is an alternate location that would not require any variances. Fifth, a pool and its equipment located so close to the Cornell's house would negatively impact the Cornell's property value, their view, and the "comfort, peace, and enjoyment" that the Town's zoning regulations are intended to protect. For these reasons this application should be denied.

I look forward to addressing these matters in person on February 21, 2023.
Thank you for your consideration.

Very truly yours,

CORBALLY, GARTLAND AND RAPPLEYEA, LLP

Allan B. Rappleyea
ABR/jrv
Enclosures
cc: James C. Cornell, Jr. and Lea Cornell

From: "Daniel Yadgard" <daniel@thefndtn.com>
Subject: 610 STANFORD - YADGARD
Date: February 26, 2022 at 9:22:53 AM EST
To: jccornell54@gmail.com, leacornell88@gmail.com
Cc: "rachel kupferberg yadgard" <rachelyadgard@gmail.com>

Mr. & Mrs Cornell - I hope this email finds you well in sunny Florida!
Please excuse the unsolicited email; but I felt the need to clarify the situation as I saw the correspondence between you and Candy.

My name is Daniel Yadgard and my wife Rachel is CC'd. We live on the Upper Westside in the city with our 2 children aged 10 and almost 7. We have been looking for a new weekend home since we sold ours early last year and as you know we have landed on 610 Stanford. We have come to terms with the seller on price and we were about to take the next steps in the process. These steps have however lead to me writing this email. This is also where I wanted to clarify things to ensure you were clear on the situation.

Mr Janson has no idea we are in communication. He does not know that I know about the issues he caused you with your variance request. I came across this information on my own.

Once we agreed on price I decided to do the due diligence surrounding the pool we intended to build. Having a pool is a must for our weekend home and we would not purchase a house without the ability to have one. I therefore just wanted to confirm we would have the ability to build one on this plot. I quickly found out that per zoning in this area we would most certainly require a variance. From there I spoke with the town to understand the process and how realistic receiving one would be. I was left to conclude after a review that receiving a variance for a pool should not pose an issue ... but obviously it's not something they could guarantee and it had to go through the process. Obviously the idea of a neighbour of such close proximity raising issue did cross my mind. From there we asked if the seller would start the process for the request for us to get a head start ... he denied us this but said he did not see an issue of getting a variance as he looked into it before and he had attended town meetings recently and felt it would be fine based no experience. This raised a red flag in my mind wondering why he is attending meetings and I once again reached out to the town to understand the proposal you set forth where he felt the need to attend meetings on the topic. I was then downloaded on your plans and his issues with them. So that brings us to where we are now!!

There was never a conversation with the seller on this topic. He has kept this situation he has had with you guys under-wraps and neither he nor his agent know this conversation is taking place. Once I was made aware of it I felt the need to reach out because the seller has clearly pissed off his neighbour and I needed to confirm this would not effect me in the future considering I would need their cooperation moving forward. I'm glad I did as this was uncovered now rather than later.

Where do we go from here? I believe in transparency so I think it's best to just put all the cards on the table so we can both make the most informed and best decision possible. You seemingly would have an issue with a pool in that backyard even without the issues caused by Mr. Janson.

I will start by saying I would not have had any issues with your plans to build a garage. When I heard the seller had an issue with your plans I was in shock ... I told my agent that the only thing I would have an issue with is if they were building a 2nd story on the house. A garage to me made sense and I felt if anything it was great as it would only add more privacy and separation for the two homes.

In regards to our plans I will admit that the most ideal spot for a pool would have been to the side of the house near the property line. But I mostly dismissed that as an option due to the proximity to your home. This did not feel right.

I've attached a screenshot of what we were thinking for your reference. In addition to this depending on how the trees or bushes fill in between the houses we would also look to add to it to provide more separation and privacy in the future. As you can see we do have plenty of room and we are actually only 12 feet short of being 100 feet from the property line.

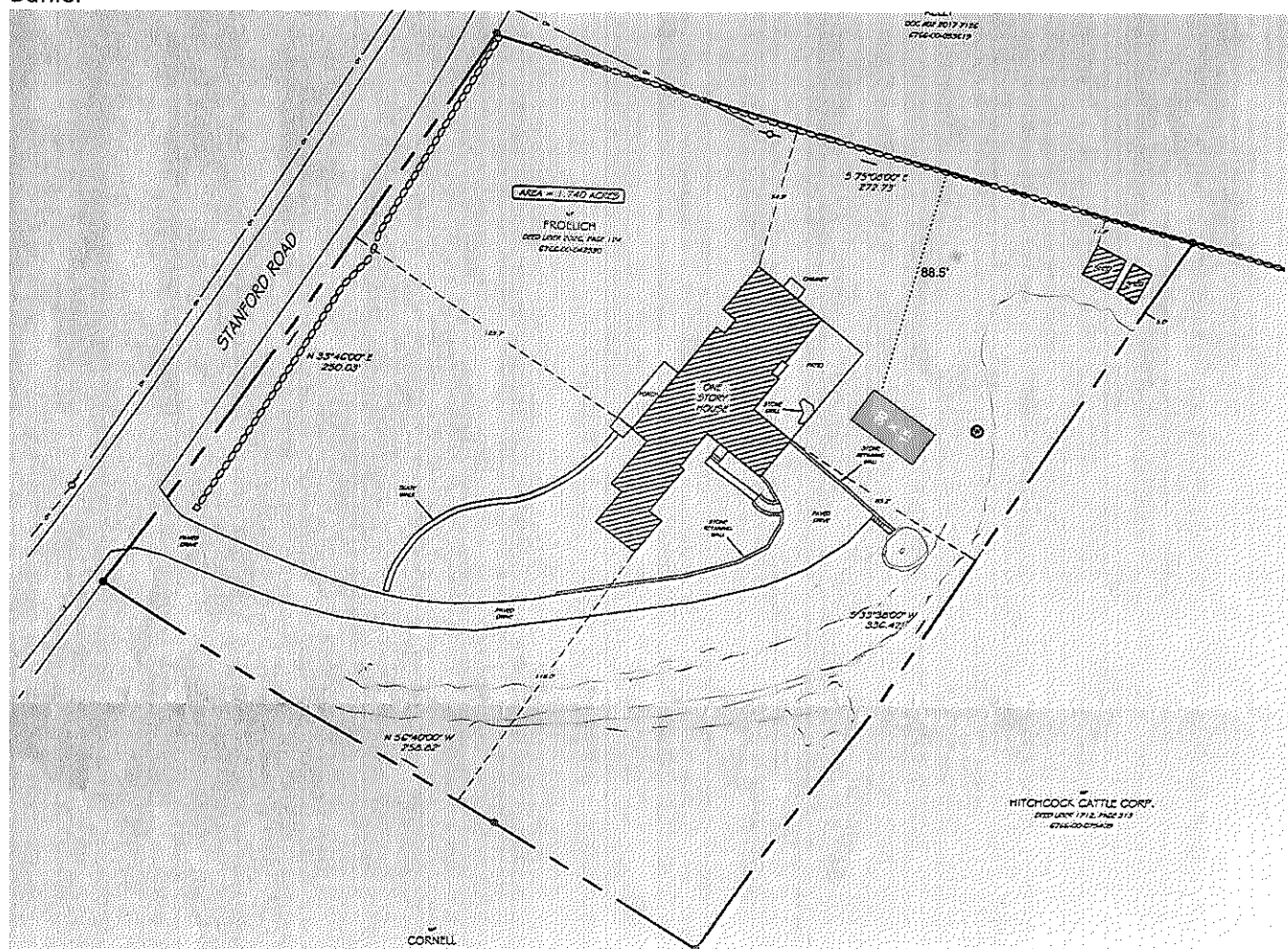
Myself and my wife are nice, "normal" people that believe in the classic definition of the word neighbour and being neighbourly. We would strive for nothing less than a situation where we had a good relationship with all our neighbours.

Apologies for the lack of brevity I just wanted to properly clarify the situation and put everything on the table so you could fully understand the situation.

if you want to chat I remain available at 917-734-3301

Best Regards

Daniel



Daniel Yadgard (Co-Founder) - The Foundation - 212-575-2373 x 121

-----Original Message-----

From: candylanderson <candylanderson@aol.com>
To: kvolino@houlihanlawrence.com
Cc: candy.anderson@compass.com
Sent: Fri, Feb 25, 2022 7:20 pm
Subject: Re: 610 Stanford Road

Hi Karen,

As you can see from the entire thread below, the Cornells are not in agreement with a request for the variance.

I'm terribly sorry. I'm afraid the initial attitude of the seller soured the neighbors generosity of spirit.

Best,
Candy

----- Original message -----

From: james cornell <jccornell54@gmail.com>
Date: 2/25/22 6:44 PM (GMT-05:00)
To: Candy Anderson <candylanderson@aol.com>
Cc: Candy Anderson <candy.anderson@compass.com>, Lea Cornell <leacornell88@gmail.com>
Subject: Re: 610 Stanford Road

Candy,

We didn't think you had anything to do with the sale, and understood that the buyers broker had sent you that email.. I am just surmising that the sellers told the buyers broker that we might grant approval for the pool if they granted their approval for the garage extension. However, the 610 back yard is a postage stamp and the pool would have to be built almost directly on the property line. That's the last thing we want to see from our back yard.

Jim Cornell
203-731-1956

jccornell54@gmail.com

Please note that I have changed my contact e-mail address

On Feb 25, 2022, at 6:37 PM, candylanderson <candylanderson@aol.com> wrote:

Thank you Jim and Lea,

This email that was sent to me is from the broker of the new buyers of 610, not the current owner. It is in contract now with new buyers. It has not closed yet.

I having nothing to do with this sale.

Candy

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: james cornell <jccornell54@gmail.com>

Date: 2/25/22 6:08 PM (GMT-05:00)

To: Candy Anderson <candy.anderson@compass.com>

Cc: Lea Cornell <leacornell88@gmail.com>, Candy Anderson <candylanderson@aol.com>

Subject: Re: 610 Stanford Road

Hi Candy,

Our initial project included an extension of the garage so we could gain additional storage and fit two cars more comfortably. The owners of 610 objected to the garage extension so we resubmitted our proposal sans the extension and received approval for the balance of the project. Now it appears that the owners of 610 are regretting their objection and want to horse trade the garage extension for a pool. For the same reason they didn't want to approve our garage extension we will not consent to a pool being built at 610.

Warm regards,

Jim Cornell
203-731-1956
jccornell54@gmail.com

Please note that I have changed my contact e-mail address

Hi Lea and Jim

I received this email last night from the broker of new buyers in contract on 610 Stanford Road.

Would you be able to send me your thoughts on this?

Hope you're enjoying your new home in Vero? The reports of last nights so called "snow storm" were vastly over rated! Pitiful amount of snowfall.

As always,
Candy

Candy Anderson
HW Guernsey at Compass
Licensed Associate Real Estate Broker

Licensed as Candace B. Anderson

3295 Franklin Avenue
Millbrook, NY 12545

m: 914.475.7576

----- Forwarded message -----

From: **Volino, Karen** <KVolino@houlihanlawrence.com>
Date: Thu, Feb 24, 2022, 6:10 PM
Subject: 610 Stanford Road
To: Candy Anderson <candy.anderson@compass.com>
Cc: Daniel <daniel@thefndtn.com>

Hi Candy,

My buyers, Daniel and Rachel Yadgard, are in the contract process for 610 Stanford Road and they want to put in a pool, for which a variance would be required. We understand your clients purchased 620 Stanford Road last year and they are trying to get approval for a garage, mudroom and basement renovation to which the present owner of 610 Stanford has objected. Per Town of Washington Zoning Board, they are re-working their original plan in an effort to pacify their neighbor.

The Yadgard's intentions are to be neighborly. They are very nice people who had pleasant relationship with neighbors in their previous weekend home in the Town of Clinton. They have 2 young kids and just want to enjoy weekends in the country and swim in their own pool. They have no issue with the neighbor's original plan and feel it might actually be an improvement to the property. Hopefully your clients will feel the same and not object to their plans for a pool. May I suggest we arrange an introduction? Perhaps if they all agree to support each other and be good neighbors, everyone will be able to move forward and get their necessary approvals.

I've copied Daniel on this email as a form of contact for your clients. We are under a bit of a time constraint and would appreciate your clients input as soon as possible. Thanks, Candy. As always, I appreciate your input and help.

Karen Volino | Licensed Real Estate Salesperson

Platinum Award Winner
Top Sales, Top Producer
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SLOAN ARCHITECTS, P.C.

MICHAEL J. SLOAN, AIA
ALEXANDRA C. SLOAN, AIA

13 January 2023

Town of Washington Zoning Board of Appeals
10 Reservoir Drive
Millbrook, New York 12545

Re: Yadgard Variance(s) Application

Gentlemen:

I am a local architect who represented Jim and Lea Cornell's side yard variance application for their 620 Stanford Road property before this body on November 16, 2021.

To refresh your memories, the Cornell's were seeking to extend an existing garage by thirteen feet and sought a side yard variance because the extension would have been three feet closer to the 610 Stanford Road property line than the existing garage. 620 Stanford Road and 610 Stanford Road are adjoining properties.

The owner of 610 Stanford Road at the time, Mark Janson, appeared at the meeting and objected to the Cornell's variance application. Mr. Janson stated that he did not want to see the extended wall of the garage, and rejected an offer to screen the extension with a fence or landscaping.

The ZBA took Mr. Janson's objections into consideration, and requested that the extension either be located on the opposite side of their property, or that the garage be repositioned so the extension did not encroach any closer to the adjoining property line. I informed the ZBA that neither one of those solutions was viable, and that the only workable option was screening via landscaping or a fence.

After further consideration the ZBA denied the Cornell's side yard variance application for the proposed garage extension.

If you require any further information regarding the Cornell's side yard variance application, please feel free to contact me.

Sincerely,



Michael Sloan, AIA

FM 10042 - 11

075655

7.7 A(s)

FM 5746 - 3

017630

7.8 A(s)

053619

2.0 A(d)

STANFORD RD

250'

WASHINGTON

042590

1.7 A(d)

400'

039561

4.1 A(c)

0 100 200 ft



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New York

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2/16/2023

OFFICE OF THE SUPERVISOR
GARY CIFERRI
(845) 677-3419

TOWN OF WASHINGTON

10 Reservoir Drive
P.O. Box 667
Millbrook, New York 12545

VARIANCE ☒ SPECIAL PERMIT ☐

Tax map ID/Grid Number: 6766-00-053619

Owner Name Lea + James Cornell

Address 620 Stanford Rd. Millbrook, N.Y. 12545

Description of Variance or Special Permit:

~~Extension of garage for bathroom addition~~
~~and to accommodate car~~

- existing front + back deck demolished and
replaced, roof added to porch

60' sideyard variance for front porch
Special Conditions: 41.28' sideyard variance for back porch

Approved ☒

Disapproved ☐

Board Members: Motion _____ Second: _____

John Parisi aye

Peter Audia aye

Frank Redl aye

Fletcher Coddington aye

Katherin Briggs aye

Signature Kristen D'Amico

Date of Meeting 1/18/2022

given to Michael 1/18/22

HITCHCOCK CATTLE CORP.
 6520 LAKE 1712 PAGE 313
 6745-00 07744-00

OK
Variance
needed

CORNELL

