# ZONING BOARD OF APPEALS Town Of Philipstown 238 Main Street Cold Spring NY 10516

**MEETING AGENDA** 

November 25, 2013 7:30 p.m.

### REVIEW FOR COMPLETENESS OF APPLICATION

1.) 20 Nazareth Way LLC

Appeal # 884

TM# 60.-1-78

20 Nazareth Way, Garrison

(Area Variance)

The applicant is seeking to subdivide its property in a manner that will create a 9.285 acre parcel when 20 acres is required. Appellant intends to convey the substandard lot to the State of New York, the adjoining owner, for park purposes. Appellant will accept a condition on the variance that requires conveyance to the State.

2.) Old/New Business

APPEAL#	884	$\mathbf{T}$	ax Ma	ap#	_	601-78	
Final hearing date		Zoning Board decision APPROVED / DENIED					
Date application submitted	10/3/2013	Fæ\$	300.00	Received	う( lby	moh	10/21/13
To the Zoning Board of A	appeals, Town of Phi	lipstown,	New York	<b>:</b> :			·
I (we),		20 Nazaı	eth Way,	LLC			
residing at	c/o D. Ben B	enoit 7 M	Masons Is	land Road	, Myst	ic Ct.	
Telephone: home	315-250-0307		busines	s	86	60-572-1242	
HEREBY appeal the decis	sion of (name and titl	e)	F	hilipstow	n Plan	ning Board	
whereby he GRANIEDDEN For					DIVIS	ION APPRO	OVAL <u>√</u>
То	20 Nazaret	h Way, L	LC				
of c/o D. E	Ben Benoit 7 Maso	ns Island	Road, M	ystic Ct.			
For property at tax map #	601-7	8	in zoni	ing district	IC -Ins	stitutional Co	nservation
WHEN FILLING OUT AI QUESTIONS.	PPLICATION, ATTA	ACH ADI	DITIONAL	PAGES AS	SNECI	ESSARYTO	ANSWER
directions to the pro	ROPERTY: (Give 9 perty using road nan uth, etc. and landma Club, etc:	nes, such	as Route 9	or 9D, Old	Alban	y Post Road,	
	20 Nazar	eth Way	Garrison,	NY 10524			

 NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS (Include those opposite on streets/highways. Use additional sheets if necessary. This information may be obtained in the Town Assessor's Office)

See Attached List

Section 175-1 9.285 acres p	1B- Dimensional table line 2 minimum lot size covering 16-20 acre required.
PREVIOUS AP appeal number, d <b>None</b>	PEAL (if there have been any previous appeals for this property or any portion thereof, set forth the ate, relief sought and the ZBA decision resulting)
TYPE C	OF APPEAL:  an INTERPRETATION of the Zoning Code or Maps a VARIANCE from the Zoning Code a SPECIAL USE PERMIT under the Zoning Code
(a) INTE	FAPPEAL (Complete only that section which applies to the appeal you are submitting) ERPRETATION of the Zoning Code is requested An exact statement of the interpretation requested is:

(	1) An exact statement of the details of the variance requested is:
1	Appellant seeks to subdivide its property in a manner that will create a 9.285-acre parcel
٧	when 20 acres is required. Appellant intends to convey the substandard lot to the State of
1	New York, the adjoining owner, for park purposes. Appellant will accept a condition on th
<u>\</u>	variance that requires conveyance to the State.
-	
(	(2) The grounds on which this variance should be granted are:
1	The substandard lot will be annexed to the adjoining State Park and will be conveyed for that
Ē	ourpose. Then net effect will be a larger park that conforms to local zoning. There is no expectation
t	hat the parcel will ever be built upon. It is expected that the State may construct trails through the
Ţ	property and a small parking lot at the northwest corner of the parcel to allow more convenient
į	public access. Failure to grant the variance will deprive the applicant the ability to make the
•	conveyance and will deny the public the opportunity for greater protection of the historic North
ı	Redoubt that exists within the present park area.
	ECIAL USE PERMIT is requested  1) The reason the permit is requested:
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( - -	1) The reason the permit is requested:
	1) The reason the permit is requested:
( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( (	1) The reason the permit is requested:
( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( (	1) The reason the permit is requested:  2) An exact statement of use for which the permit is requested:  (3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of town code for granting of a
( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( (	1) The reason the permit is requested:  2) An exact statement of use for which the permit is requested:  (3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of town code for granting of a
( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( (	1) The reason the permit is requested:  2) An exact statement of use for which the permit is requested:  (3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of town code for granting of a

(b) a VARIANCE from the Zoning Code is requested:

# PHILIPSTOWN ZONING BOARD OF APPEALS SUPPLEMENTAL WORKSHEET FOR AREA VARIANCE APPLICANTS

In accordance with state law, the Zoning Board must grant or deny an area variance based on specified factors and a balancing of "the benefit to the Applicant" if the variance is granted, as weighed against the detriment to the health, safety We have developed this Supplement to assist you with preparing, and welfare of the neighborhood or community submitting and presenting your case to the Zoning Board. Please complete the factors 1 a - 5 below and submit with your application (attach additional pages if necessary). We have provided suggested questions which will assist you in answering each factor and in preparing for the Board's review. It is strongly suggested that you structure your presentation at the hearing in accordance with the factors. Provide facts and proof to support each factor.

#### FACTORS TO BE CONSIDERED BY THE BOARD

1 a. What possible detriment would the variance have on nearby properties? How close are nearby structures? Will your structure be visible to others or will it block a view? Do you propose exterior lights?

Granting the variance will have no detrimental effect on the nearby properties. In fact the opposite is true. Conveying 9+ acres of the Winter Hill property to the State will assure that an additional 9 acres will be "forever green" and thus provide protection to nearby properties. If, in the future, the State decides to build the parking lot on a small portion of the property, it will provide the public a place to park their vehicles while they enjoy the park. Today, those people park along the side of Snake Hill Road. Elimination of parking along Snake Hill Road is a desirable event for nearby properties.

1 b. What impacts would the variance have on the character of the neighborhood? Have others in the neighborhood received similar variances? Does the Neighborhood contain similar structures with similar setbacks/heights etc.? Is your property similar to or different from others in the area? If several of your neighbors were to receive variances in the future similar to the one you now request, would the neighborhood be changed?

For the reasons previously stated, there would be no negative impacts on the neighborhood if the variance were granted. There is little likelihood that neighboring lands would ever be granted a similar variance. However, if one were granted, it might also be conditioned upon conveyance of the land to the State, a condition the appellant is willing to accept. Were a similar variance with a similar condition granted even more of the neighborhood would be protected and there would also be no negative impact on the community.

2. If you didn't get the variance, how else could you build what you want or accomplish your goal? For example: different location or design; shorter fence; smaller deck; smaller overhang or addition?

If the variance is not granted conveyance of the substandard lot to the State might not occur at all. The applicant wishes to

convey as much land as possible to the State. The lot proposed is as large as it can be. Making the lot smaller would increase the size of the variance requested. It is not possible to make the lot larger without making the other Winter Hill Lot (Lot 1) non-conforming. Because Lot 1 will continue to be used for Institutional purposes, the idea of obtaining a variance for it would be greater in effect than granting the variance to the lot that will be conveyed for Park purposes.

3. What is Code requirement you seek to vary? Appellant seeks to vary the code requirement that requires lots in the IC zone to contain 20 acres.

How large of a variance do you seek? Appellant seeks approval to create a lot of 9.285 acres when 20.00 acres is required. Appellant therefore seeks a variance of 10.715 acres

4. What impact or effect will the variance have on the current physical and environmental conditions in the are proposed? Will you be paving previously unpaved surfaces? Are you proposing to remove any veg or other watercourses on site? Will normal drainage patterns be affected? How close are the nearest wells proposed use or activity produce emissions (noise or odors)? Will traffic be increased? Is the area considered scen There will be no physical change as a result of granting the variance and approving the s	etation? Are there wetlands and septic systems? Will the ic? ubdivision that will then
follow. Therefore no negative impacts will occur. As stated above, the State may somed	ay build a small parking
area on part of the property. The parking area, if constructed, will be designed for appro	ximately 10 cars.
Typically, 3,000 square feet of area is required for a 10-car parking lot. Even if 5,000 square	are feet were required,
the impacts associated with the construction would be considerably smaller than those	associated with
constructing a single-family residence. As previously stated, construction of the parking	lot, should the state
undertake the project, will eliminate parking along the side of Snake Hill Road, which is a	desirable income.
5. Is the variance requested as a result of a "self-created hardship? Was there a need for the variance when you purago did you purchase the property? Did you build the structure without a permit? Is the need for a variance as a result The need for the variance is not self-created. The appellant has done nothing to create a	of someone's mistake? Describe.
be remedied. The appellant's desire to convey the land to the state is not born out of ne	ed. Rather, it is born out
of a respectful concern to protect the neighborhood and the State Park.	

\*

#### STATE OF NEW YORK, COUNTY OF PUTNAM

Christopher Buck	being duly sworn, says: I have
read the foregoing appeal and papers a made therein are true to the best of my k	attached; that the statements and representations cnowledge and belief.
	20 Nazareth Way, LLC by:
	Christopher Buck, Sole Member
Swom before me this	Signature of applicant or agent
25th day of September	20 13
Notary, Putnam Duff County.	REBECCA W. LINDA NOTARY PUBLIC, State of New York No. 5004353

Notary, Putnam D. County.

NOTARY PUBLIC, State of New York
No. 5004353
Qualified in Dutchess County
Commission Expires November 16,

SUBMISSION REQUIREMENTS: (1) For a VARIANCE or INTERPRETATION please submit (7) individual packets.

(2) For a SPECIAL USE PERMIT please submit (19) individual packets

Each packet containing one each of the below listed items. These items are very specific and MUST be complied with exactly

- 1. Completed appeal form
- 2. Deed to property
- 3. Denied application for Building Permit or Certificate of Occupancy
- 4. Building plans with ONE ORIGINAL professional seal and signature
- 5. Survey prepared by NYS licensed surveyor, showing all property lines, structures and dimensions to property lines. One survey with ORIGINAL professional seal and signature.
- 6. Certificates of Occupancy for any existing structures
- 7. Contour maps as required by conditions

### LIST OF ADJOINERS WINTER HILL 60.1-78

60.18-1-37	601-74	60.14-1-13
VAMBUTAS, EDMUNDAS	TAYMOR, JULIE	O'REILLY, NOEL
333 Snake Hill Rd	874 Broadway Ste 1005	1192 Rt 9D
Garrison, NY 10524	New York, NY 10003	Garrison, NY 10524
,	,	,
60.18-1-52	60.14-1-2	60.14-1-22 & 602-24
HAINES, JOHN	YOO, JAMES M	THE WALTER HOVING HOME,
44 Nelson Ln	1191 Rt 9D	INC.
Garrison, NY 10524	Garrison, NY 10524	40 Walter Hoving Rd
		Garrison, NY 10524
60.14-1-23	602-25.3	602-25.4
SULLIVAN, MARIANNE	EMRAY LAND CORPORATION	K. J. A LAND COMPANY INC
19 Avery Rd	238 Snake Hill Rd	2 Overbrook Dr
Garrison, NY 10524	Garrison, NY 10524	Garrison, NY 10524
Garrison, IVI 10324	Gairison, 141 1032+	Garrison, 141 10324
60.14-1-19	60.14-1-16	60.14-1-15
JACOBSON, LESLIE H	DUNN, JOSEPH	TRAVIS CORNERS REALTY INC
400 E 52 <sup>nd</sup> St Apt 3D	305 Route 403	9 East 81St St
New York, NY 10022	Garrison, NY 10524	New York, NY 10028
1.000 1010, 1.11 10022	04115011,111 10521	1000 1011, 111 10020
60.18-1-41	60.18-1-43	60.18-1-47
OPEN SPACE CONSERVANCY	NEILL, BENJAMIN	WHITE, RUSSELL A
1350 Broadway Rm 201	1140 Rt 9D	PO Box 85
New York, NY 10018	Garrison, NY 10516	Garrison, NY 10524
,	,	,
60.18-1-48	60.14-1-17	60.18-1-38
MROZIK, EDWARD M	HEIM, JASON	BURTON, LEONORA
22 Nelson Ln	7 Avery Rd	214 Oak Rd
Garrison, NY 10524	Garrison, NY 10524	Garrison, NY 10524
60.18-1-42	60.18-1-40	60.18-1-39
MANDY, JESSICA	AGOSTA, MICHAEL	HAMEL, DAVID K
1146 Rt 9D	21 Oak Rd	22 Oak Rd
Garrison, NY 10524	Garrison, NY 10524	Garrison, NY 10524
601-79	60.18-1-45	60.18-1-49
HECKERT, JULIANNE ENDLER	1130 Route 9D LLC	STRUCK, BUD
PO Box 556	c/o Lawrence Downey	26 Nelson Ln
Garrison, NY 10524	108 Hudson Pointe Drive	Garrison, NY 10524
	Poughkeepsie, NY 12601	
601-5	602-81	60.18-1-50
WILLIAMS, MARK A	RANKEL, CARL	BYRNES, DOROTHY D
1344 Lexington Ave	1994 Albany Post Rd	32 Nelson Ln
New York, NY 101281507	Garrison, NY 10524	Garrison, NY 10524
		•

# 60.1-78 WINTER HILL List of Adjoiners Cont'd

60.18-1-51 MINKIN, DAVID A 40 Nelson Ln Garrison, NY 10524

60.-2-80 PERRONE, KIMBERLY 24 Mynderse St Saugerties, NY 12477 60.-1-67 CONS UNION FREE SCHOOL 45-302 Route 9D Garrison, NY 10524

60.-1-76 STATE OF NEW YORK 40 Gleneida Ave Carmel, NY 10512



DOCUMENT # 1501064

DEED - COMM/VACANT

RETT: 1999 \$8,800.00 CONSIDERATION: \$2,200,000.00

06/26/2009 10:41:19 A.M. RECEIPT: 9254 FEE: \$330.00 DENNIS J. SANT PUTNAM COUNTY CLERK LIBER: 1833 PAGE: 104

RESERVE FOR RECORDING INFORMATION



## PUTNAM COUNTY RECORDING PAGE

PAGE 1 OF RECORDED DOCUMENT

RECORD & RETURN TO:
Samson R. Bechhofer, Esq.
Pryor, Cashman, LLP
7 Times Square
New York, NY 10036-6569

TYPE OR PRINT

GRANTOR/MORTGAGOR
House of Nazareth Life
Institute Ltd.

DO NOT WRI	TE BELOW THIS LINE
OTHER ASMT ASMT	CEM POA ESE
RECORDING FEES # OF PAGES C/R	RESERVE FOR CERTIFICATION
RCD FEE 35.00	
STAT CHG20.00_	
REC MGMT20.00_	
CROSS REF	
TOTAL 75,00	

THIS DOCUMENT WAS EXAMINED PURSUANT TO \$315 REAL PROPERTY LAW

DENNIS J. SANT
PUTNAM COUNTY CLERK

RESERVE FOR CLERK'S NOTES

Revised 10/2008

KARS 5058 AND

# BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS

CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY ATTORNEYS FOR SELLER AND PURCHASER REFORE SIGNING.

THIS INDENTURE, made the / Thaday of June, 2009

BETWEEN House of Nazareth Life Institute Ltd. (a New York Not-For-Profit) Corporation with offices at, 48 Wilson Park Drive, Tarrytown, New York 10591,

party of the first part, and

20 Nazareth Way LLC a New York Limited Liability Company, c/o Ben Benoit, 7 Masons Island Rd, Mystic, Connecticut 06355,

party of the second part;

WITNESSETH, that the party of the first part, in consideration of Two Million Two Hundred Thousand Dollars and No Cents (\$2,200,000.00), lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever;

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Philipstown, County of Putnam, State of New York as more particularly described in SCHEDULE A;

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part, covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

NYSBA's Residential Real Estate Forms (9/00)

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S: 60 B:1 L:78

ALL the certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Philipstown, County of Putnam and State of New York and more particularly bounded and described in a certain Deed from Philipse Brook Corporation to Sisters of the Good Shepherd, Province of New York, dated January 23, 1967 and recorded in Putnam County Clerk's Office Liber 642 of Deeds at page 150 on January 26, 1967 as follows:

BEGINNING at a point on the northeasterly line of lands formerly of John Garrison, now William II Osborn, which point is the following courses and distances from the southerly corner of the school lot (now or formerly of Mesaimer) along the mean center line of a stone wall forming the boundary of William H. Osborn on the South and Philipse Brook Corporation on the North; South 47° 30' 30" East 499.62 feet; South 47° 55' 40" East 53.02 feet; and South 47° 25' 20" East 103.35 feet to the point and place of beginning.

THENCE from said point of beginning continuing along lands now or formerly of William H. Osborn, South 47° 25' 20" East 250 feet and South 47° 08' 50" East 67.74 feet to a point and the southwesterly comer of land conveyed by Philipse Brook Corporation to Boscobel Restoration Inc., by deed dated August 25, 1965 and recorded in the Office of the Clerk of the County of Putnam Liber 616 cp 298;

THENCE running along the boundaries of said premises conveyed to Boscobel Restoration, Inc. the following courses and distances: North 25° 20' 30" East 261.06 feet; North 59° 45' 10" East 123.68 feet; South 38° 34' 20" East 378.25 feet and South 34° 58' 20" West 306.49 feet to a point and lands now and formerly Gunther;

THENCE running along same and along lands formerly of John Garrison, the following courses and distances: South 47° 19' 20" East 34.44 feet; South 51° 37' 10" East 80.66 feet; South 51° 49' 10" East 35.79 feet; South 58° 13' 30" East 36.78 feet; South 50° 22' 40" East 91.98 feet and South 48° 59' 30" East 46.05 feet to a point and other lands of Philipse Brook Corporation;

THENCE running along same North 36° 35' East 1351.07 feet to a point on the southerly side of Philipse Brook Road;

THENCE running along same the following courses and distances: North 48° 06' 20" West 282.44 feet; North 51° 06' 20" West 54.58 feet; North 43° 20' 50" West 70 feet; North 43° 37' 20" West 90.41 feet; North 58° 20' 30" West 119.54 feet; North 58° 32' 10" West 42.72 feet; North 60° 01' West 33.84 feet; North 57° 14'

Continued On Next Page

20" West 23.75 feet; North 70° 26' West 17.95 feet; North 80° 28' 10" West 22.41 feet; North 63° 48' 40" West 34.10 feet; South 82° 13' 50" West 110.87 feet; South 81° 49' West 142.14 feet; South 76° 54' 10" West 45.19 feet; South 88° 39' 50" West 102.04 feet continuing along said Philipse Brook Road and crossing the entranceway to the within described property South 39° 09' West 87.10 feet, and continuing along the South side of Philipse Brook Road, North 89° 56' 10" West 52.76 feet, and North 73° 37' 20" West 44.56 feet to a point, said point being the northwesterly corner of the premises herein described.

THENCE running along other lands of Philipse Brook Corporation due South 201.65 feet; due East 125 feet; due South 75 feet; due West 125 feet and due South 635 feet to the point of BEGINNING.

EXCEPTING therefrom the premises described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Philipstown, County of Putnam and State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the boundary of lands now or formerly of Boscobel Restoration, Inc. as described in deed resorded in Liber 616 cp 298 In Putnam County Clerk's Office, said point being the following courses and distances from the point of beginning for the premises described in deed to Sisters of the Good Sheperd, Province of New York as recorded in Putnam County Clerk's Office in Liber 642 cp 150; Running along lands formerly of William H. Osborn South 47° 25' 20" East 250 feet and North 47° 08' 50" West 67.74 feet to lands now or formerly of Gunther at the intersection of two stone walls and the Southwesterly corner of land of Boscobel Restoration, Inc., as described in Liber 616 cp 298; thence along land now or formerly of Boscobel Restoration, Inc., North 25° 20' 30" East 261.06 feet, North 59° 45' 10" East 123.68 feet, and South 38° 34' 20" East 378.25 feet to the point and place of BEGINNING.

THENCE running along lands now or formerly of Boscobel Restoration, Inc., North 38° 34' 20" West 327.20 feet to the point;

THENCE North 75° 21' 26" East 127.87 feet; South 38° 34' 20" East 240.82 feet; and South 34° 58' 20" West 121.87 feet to the point of BEGINNING.

SAID PREMISES also being bounded and described as follows:
ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Philipstown, County of Putnam and State of New York, bounded and

Title Number EVES20284NYP

Page

described as follows:

BEGINNING at the Northeasterly corner of lands of Endler (acquired from Stephanie Rosenfeld 9/27/71)

RUNNING THENCE along said lands, North 38° 34' 20" West 327.20 feet;

THENCE North 75° 21' 26" East 127.87 feet; South 33° 34' 20" East 240.82 feet and South 34° 58' 20" West 121.87 feet to the point of Beginning

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

Mark Lopez

IN PRESENCE OF:

Acknowledgment by a Person Within New York State (RPL § 309-a)

STATE OF NEW YORK

On the The day of in the year 2009, before me, the undersigned, personally appeared Mark Lopez, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

(signature and office of individual taking acknowledgment)

### Bargain and Sale Deed

## Title No. EVES 20284NYP

Section 60 Block Lot 78

House of Nazareth Life Institute Ltd. (a New York Not-For-Profit) Corporation with offices at

County or Town Putnam Street Address 20 Nazareth Way

Philipstown, New York 10524

20 Nazareth Way LLC a New York Limited Liability Company

Return By Mail To:

Samson R. Bechhofer, Esq. Pryor, Cashman, LLP 410 Park Avenue 7 77765 SAYNES New York, NY 10022 10036-6569

Reserve This Space For Use Of Recording Office						
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