



2 CHAIRMAN BRAND: I'd like to call the  
3 meeting to order with the Pledge of Allegiance to  
4 the flag of our country.

5 (Pledge of Allegiance.)

6 CHAIRMAN BRAND: Agenda. Town of  
7 Marlborough Planning Board. Revised February  
8 25th. March 2, 2020. Regular meeting 7:30 p.m.  
9 On the agenda tonight, Bayside Mixed Use,  
10 extension, subdivision/site plan, 18 Birdsall  
11 Avenue, Marlboro. The next deadline is March 6th.  
12 The next scheduled meeting is Monday, March 16,  
13 2020. A lot to go over this evening.

14 Jeff, I know there was a question that  
15 was brought up about extensions with site plans  
16 -- I'm sorry -- yes, site plans and subdivisions.  
17 Maybe you just want to clarify that for all of us  
18 and then we can go ahead.

19 MR. BATTISTONI: Sure. If you don't  
20 mind, I'll give you kind of a background. New  
21 York State law has something called a New York  
22 State Town Law. Article 16 of that is called  
23 zoning and planning. That's where all the laws  
24 are about creation of zoning boards of appeals,  
25 planning boards, and all the laws about

2 subdivisions, and site plans, and special use  
3 permits. They all come from that state law.  
4 Then local governments can implement what's in  
5 that state law in their own local codes.

6 Under the State Subdivision Law, a  
7 subdivision approval can be extended for 90 days.  
8 It used to be that there was a limit of two.  
9 That law was amended some time ago and they got  
10 rid of that limit. So in theory, a subdivision  
11 approval can be extended for 90 days over and  
12 over and over again.

13 The Town of Marlborough Town Code still  
14 has the old limit of two in it. Some day that  
15 probably should be updated. But right now that  
16 is there.

17 The application tonight is seeking to  
18 extend the subdivision approval, and that's why  
19 the resolution refers to a 90-day extension.

20 Separate from that, site plan approval,  
21 there's no limit in the state statute about  
22 extensions. There's no limit on how long a site  
23 plan approval applies. Towns are free to do what  
24 they want.

25 So the Town Code in Marlborough says

2 that a site plan approval is good essentially for  
3 two years. You have to begin construction within  
4 one year, you have to complete it in two years.  
5 And then the code does allow two one-year  
6 extensions. So the two processes are different,  
7 and that's based on state law being different.

8 Bayside is a bit of an unusual  
9 application because it had a site plan approval  
10 component and also a subdivision approval  
11 component.

12 So I hope that background helps.

13 MS. LANZETTA: Mm'hm'.

14 CHAIRMAN BRAND: It did very much. And  
15 I appreciate you coming this evening.

16 MR. BATTISTONI: Okay, sure.

17 CHAIRMAN BRAND: Any questions from the  
18 Board? Comments? Mr. Garofalo.

19 MR. GAROFALO: With regard to their  
20 request, it looks like it's a request for dealing  
21 with the subdivision.

22 MR. BATTISTONI: Correct.

23 MR. GAROFALO: Is a subdivision 90  
24 days?

25 MR. BATTISTONI: Yes.

2 MR. GAROFALO: So does this fit within  
3 the 90 days?

4 MR. BATTISTONI: Well you're granting a  
5 90-day extension.

6 MR. GAROFALO: What date would that be?  
7 What day would that be from? Would that be  
8 from --

9 MR. BATTISTONI: Well --

10 MR. GAROFALO: -- the November --

11 MR. BATTISTONI: -- it says here,  
12 towards the bottom of the resolution that I  
13 prepared, it's going to begin to run from March  
14 14th, because that's when their approval will  
15 expire, and it will last for 90 days. That takes  
16 them to June 11th.

17 MR. CAUCHI: Is that the approval that  
18 expires from the two years or --

19 CHAIRMAN BRAND: That's the  
20 subdivision.

21 MR. CAUCHI: -- the extension of that?

22 CHAIRMAN BRAND: That's the  
23 subdivision, not the site plan. The site plan is  
24 the one that has the two-year limit.

25 MR. CAUCHI: Okay.

2 CHAIRMAN BRAND: A subdivision has --  
3 how long is the original?

4 MR. BATTISTONI: The original is 180  
5 days.

6 CHAIRMAN BRAND: 180.

7 MR. BATTISTONI: This Board granted a  
8 re-approval in September for 180 days, and that  
9 runs until March 14th. I think the applicant  
10 realizes we're getting close to that, so please  
11 give me an extension.

12 This resolution would grant a 90-day  
13 extension that would run from March 14th until  
14 June 11th.

15 CHAIRMAN BRAND: Just for the  
16 subdivision?

17 MR. BATTISTONI: Correct. Just for the  
18 subdivision.

19 CHAIRMAN BRAND: Okay. Any other  
20 questions or comments?

21 MR. GAROFALO: So the approval was on  
22 September 16th?

23 MR. BATTISTONI: I think so, yes.

24 MR. GAROFALO: So it's not 90 days from  
25 September 16th?

2 MR. BATTISTONI: No. It's 180 days.

3 The additional approval is 180 days. Again, that  
4 comes from the New York State Town Law.

5 MR. GAROFALO: Okay. Okay. I  
6 certainly do have some questions about some of  
7 the conditions. If other people have questions,  
8 I'll --

9 CHAIRMAN BRAND: Go ahead. The floor  
10 is yours.

11 MR. GAROFALO: Okay. On condition B it  
12 talks about the approval of New York State  
13 Transportation for the 9W access and the utility  
14 connections/construction permit. I saw in the  
15 materials that you -- that were provided that  
16 there is information on the right-of-way and the  
17 ability to transfer the right-of-way to DOT.  
18 What I didn't see, and maybe it's somewhere else  
19 in the file and it's been provided, is  
20 information on the actual highway permit. In  
21 particular, one of the things that was brought up  
22 earlier last year was the question of right out  
23 only at the school access for the middle school.  
24 I don't know as if that had been finalized with  
25 DOT and the school. I know there had been some

2 papers with the school dealing with reconfiguring  
3 their parking, but I wanted to find out what is  
4 the status of the right turn out at the middle  
5 school as part of the overall highway permit for  
6 redoing the light and providing the access for  
7 what's going to become, I guess, a public road.

8 MR. DATES: A public road on our  
9 property.

10 MR. GAROFALO: Yes.

11 MR. DATES: Yeah. Okay. That  
12 maintains as a right and left out of the school.  
13 That was not modified.

14 In our July 3, 2019 submission we did  
15 go through each of these resolution items and  
16 where they stand. We did provide correspondence  
17 from Lee Zimmer at DOT that says pending  
18 completion of the process, which I've provided  
19 with this most current submission, Bayside is a  
20 permittable project. So we've gone through the  
21 plan revisions in coordination with DOT that it's  
22 ready for a permit.

23 MR. GAROFALO: Just so you're aware, I  
24 was not part of the Board back then.

25 I'll, you know, publicly state that I

2 have worked with John Collins on both sides of  
3 the table, who is now owned by Maser, and I think  
4 I've worked with Maser, too. I also have placed,  
5 both with the Town Board and this Board,  
6 information with regard to this particular  
7 project, which is a matter of public record.

14 MR. DATES: I don't have the exact -- I  
15 think that --

16 CHAIRMAN BRAND: I think he's referring  
17 to the original driveway was a right-turn only  
18 out, not the road that you'll be constructing for  
19 the project.

20 MR. DATES: The existing driveway from  
21 the middle school?

22 CHAIRMAN BRAND: Correct.

23 MR. GAROFALO: Right.

24 MR. DATES: Yes. That, as I stated,  
25 maintained a left and a right turn under the

2 permit plans that DOT has said are acceptable and  
3 ready for permit.

4 MR. GAROFALO: Okay. Item number E  
5 dealing with the Town highway superintendent, the  
6 road access permit for the emergency access onto  
7 Purdy Road, was that something that you had sent  
8 in to the Town --

9 MR. DATES: Yes.

10 MR. GAROFALO: -- previously?

11 MR. DATES: Yes. Again, that July 3,  
12 2019 submission has a letter from Gael Appler  
13 accepting the locations of the emergency access  
14 and the main entrance.

15 CHAIRMAN BRAND: Jeff, just for your  
16 clarification, for your final copy it's Purdy  
17 Avenue.

18 MR. BATTISTONI: Okay.

19 MR. GAROFALO: Do you happen to have a  
20 copy of that with you?

21 MR. DATES: Yeah.

22 MR. GAROFALO: I hope that's a copy  
23 that's with the Planning Board secretary.

24 MR. DATES: Yes. It's dated July 3,  
25 2019. This is a copy of the submission.

4 MR. GAROFALO: So you've addressed the  
5 construction phasing plan review and approval by  
6 the Planning Board engineer?

7 MR. DATES: Yeah. Yeah. I have --  
8 we've provided an updated plan to Mr. Hines,  
9 showing to him the change of phases. In my  
10 comment at that same time I identified the  
11 discussions that we had. Pat was in agreement of  
12 the new phase description.

13 MR. GAROFALO: A copy of that phase  
14 description is with the Planning Board?

15 MR. DATES: He has a copy of the plan.

16 MR. GAROFALO: Okay. But the Board  
17 should have a copy also, because some day we may  
18 end up with a new engineer. We want to make sure  
19 that the records are in the Town because the Town  
20 is going to be -- you're going to be in the Town.  
21 The Town is going to stay here hopefully for a  
22 very long time.

23 MR. DATES: Absolutely.

24 MR. GAROFALO: Those are my -- those  
25 are all of my questions, Mr. Chairman. Thank you.

2 CHAIRMAN BRAND: You're welcome.

3 Anything else from the Board?

4 (No response.)

5 CHAIRMAN BRAND: All right then. For  
6 the application of Bayside Construction, LLC  
7 resolution of approval by the Town of Marlborough  
8 Planning Board for subdivision; Jen, would you  
9 poll the Board?

10 MS. FLYNN: Chairman Brand?

11 CHAIRMAN BRAND: Yes.

12 MS. FLYNN: Member Lanzetta?

13 MS. LANZETTA: Yes.

14 MS. FLYNN: Member Garofalo?

15 MR. GAROFALO: Yes.

16 MS. FLYNN: Member Trapani?

17 MR. TRAPANI: Yes.

18 MS. FLYNN: Member Lofaro?

19 MR. LOFARO: Yes.

20 MS. FLYNN: Member Cauchi?

21 MR. CAUCHI: Yes.

22 CHAIRMAN BRAND: You're all set.

23 MR. DATES: If I could just ask one --

24 CHAIRMAN BRAND: Absolutely.

25 MR. DATES: Just in line with what Mr.

2 Garofalo was going through, the resolution items,  
3 as the applicant we see that the only remaining  
4 resolution item is A. It's the Board's rec fees  
5 and the deferment of all the consultant costs  
6 incurred by the Town of Marlborough. As I  
7 mentioned, in July we presented how we addressed  
8 B through H.

9 Can I ask the Board to give us what  
10 those fees are at this point, because the  
11 applicant would like to address those so we can  
12 get the subdivision signed, filed, and then we  
13 can go and do the business corridor overlay and  
14 kind of wrap up the site plan resolution items as  
15 well?

16 MS. FLYNN: I didn't bring that down  
17 with me. But also you're going to be charged for  
18 today's meeting. That would be the final bill.  
19 I mean you have --

20 MR. DATES: Yes.

21 MS. FLYNN: So whatever is there.

22 MR. DATES: Okay. I understand that  
23 will come in time. I guess really it mentions  
24 recreation fees. I know the Town's fees are  
25 \$1,500 a lot. So are we paying --

2 MS. FLYNN: That went up to 2,000.

3 MR. DATES: Oh, it did. I'm sorry.

4 Okay. So we'll be paying \$6,000 in recreation  
5 fees and then the consultant costs? Would that  
6 be all that's expected of the applicant at this  
7 time?

8 CHAIRMAN BRAND: I think we'd have to  
9 get back to you on that --

10 MR. DATES: Okay.

11 CHAIRMAN BRAND: -- just to make sure  
12 that -- I don't want to tell you the wrong thing  
13 right now. We just want to make sure that we get  
14 it right.

15 MR. DATES: Okay.

16 CHAIRMAN BRAND: And then Jen will  
17 provide you with a detailed --

18 MR. DATES: Okay.

19 CHAIRMAN BRAND: -- bill.

20 MR. DATES: The applicant wants to get  
21 that taken care of so we can kind of --

22 CHAIRMAN BRAND: Absolutely. Okay.

23 All right. Anything else?

24 MR. LOFARO: Should we accept the  
25 minutes from last time?

2 CHAIRMAN BRAND: There are none to be  
3 had. We just received them today. I don't know  
4 if everybody had a chance to look through them.

5

6 (Time noted: 7:50 p.m.)

7

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

9

10 I, MICHELLE CONERO, a Notary Public  
11 for and within the State of New York, do hereby  
12 certify:

13 That hereinbefore set forth is a  
14 true transcription of the recorded proceedings.

15 I further certify that I am not  
16 related to any of the parties to this proceeding by  
17 blood or by marriage and that I am in no way  
18 interested in the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto  
20 set my hand this 18th day of March 2020.

21

22

Michelle Conero

MICHELLE CONERO

24

25

STATE OF NEW YORK : COUNTY OF ULSTER  
TOWN OF MARLBOROUGH PLANNING BOARD

In the Matter of

4

5

6 TOWN OF MARLBOROUGH CODE

7 SECTION 134-6

8

## BOARD BUSINESS

11 Date: March 2, 2020  
12 Time: 7:50 p.m.  
13 Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

15       BOARD MEMBERS:     CHRIS BRAND, Chairman  
16                             BEN TRAPANI  
16                             CINDY LANZETTA  
17                             JOSEPH LOFARO  
17                             MANNY CAUCHI  
17                             JAMES GAROFALO

19 ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
20 PATRICK HINES  
21 VIRGINIA FLYNN

21

22 - - - - - MICHELLE L. CONERO X  
23 PMB #276  
24 56 North Plank Road, Suite 1  
Newburgh, New York 12550  
(845)541-4163

2 MS. LANZETTA: I do have a question for  
3 Jeff, since we have a couple of minutes. This is  
4 in relation to what we've been kind of going back  
5 and forth on in regards to undeveloped  
6 subdivisions, existing subdivisions. I'm trying  
7 to get clarity. I was looking at 134-6 on  
8 undeveloped subdivisions in our Town Code. Just  
9 so that the rest of the Board understands what  
10 I'm talking about, if we had a subdivision that  
11 was, let's say, a ten-lot subdivision that was  
12 passed and filed but was never built for several  
13 years, and it was supposed to have a Town road,  
14 would they be able to turn around and put in a  
15 private road and stick four houses on that  
16 private road? Would that be legal under our  
17 present Town Law? Would that be possible --  
18 legal?

19 MR. BATTISTONI: Bear with me one  
20 second. I have that in front of me, so I'm going  
21 to read it quickly.

22 MR. TRAPANI: They probably have to  
23 come back in front of us.

24 CHAIRMAN BRAND: I believe the  
25 situation you're referring to is a condition of

2 the approval. Correct?

3 MS. LANZETTA: Well I'm not talking  
4 about a specific subdivision. I'm just saying in  
5 general.

6 The point is it's my understanding the  
7 building inspector believes that if someone has a  
8 subdivision filed, that they're allowed, at  
9 minimum, to have -- because we have a private  
10 road law that says you can have up to six but  
11 certainly four houses on a private road, that  
12 somebody, even though they have a different  
13 subdivision that's been filed, is allowed to come  
14 in and put in a private road and put in four  
15 houses. He says that he is obligated to allow  
16 somebody to do that. I don't understand if that  
17 would be true or not.

18 MR. BATTISTONI: So I don't know if I'm  
19 following that. If I look at 134-6, --

20 MS. LANZETTA: Yes.

21 MR. BATTISTONI: -- it says where a  
22 subdivision plat filed with the office of the  
23 County Clerk is entirely or substantially  
24 undeveloped, the Planning Board may require those  
25 portions which are undeveloped to be replatted.

2 So if you have an old subdivision which is  
3 partially built, the Planning Board could require  
4 the applicant to come back in for replatting and  
5 re-approval. That's what this is saying.

6 Your question is separate from that,  
7 though.

8 MS. LANZETTA: I guess there were two  
9 questions. There was that one, and then the  
10 other one, would it be possible for somebody to  
11 just go in and put in let's say technically a  
12 minor subdivision on an existing, already filed,  
13 separate subdivision with four houses and --  
14 could they legally do that?

15 MR. BATTISTONI: I don't know. Does  
16 your code have a limit on the number of houses  
17 that can be served by either a private drive or a  
18 private road?

19 MS. LANZETTA: Yes. Well to stay under  
20 -- it's a combination. I guess this is a  
21 combination, because to stay under the major/  
22 minor subdivision law, if you do four lots or  
23 less you stay under the -- five lots or less you  
24 stay under the -- as a minor subdivision. Our  
25 code allows you to have four houses. Six but

2 then we're getting into the larger subdivision  
3 regulations. You can possibly have six. You can  
4 certainly have four houses on a private road.

5 So does that mean that you don't have  
6 to, first of all, follow the original  
7 subdivision; and, second of all, you can just go  
8 in and put in a private road and have this minor  
9 subdivision?

10 MR. BATTISTONI: I'll have to look at  
11 that. I would be concerned that if the original  
12 subdivision approval required a Town road, they  
13 would be deviating from one of the conditions if  
14 they then just used a private road. But I would  
15 have to look into that.

16 MS. LANZETTA: Yeah.

17 MR. GAROFALO: I'm not sure. For the  
18 private roads -- don't they have to get the road  
19 accepted by the Town for it to be a public road?  
20 So basically they are building a private road and  
21 then they're getting accepted as a public road?

22 MR. TRAPANI: There's different widths  
23 I think between a private road and a public road.

24 MS. LANZETTA: I think it's more the  
25 base.

2 CHAIRMAN BRAND: The thickness.

3 MR. GAROFALO: But if they know they're  
4 going to build a public road, they build it to  
5 the public road standard.

6 MS. LANZETTA: But I'm saying they  
7 changed their mind. They don't want to do a  
8 public road. They've changed their mind, so now  
9 they're just going to go ahead and put in a  
10 private road and put four houses on there.

11 CHAIRMAN BRAND: Our original  
12 conversation this evening began with the State  
13 Law on subdivisions. You said the original time  
14 that they have for that is 180 days. Doesn't any  
15 subdivision that's exceeded 180 days without  
16 being built need to come before us again anyway?

17 MR. BATTISTONI: No. That's just for  
18 the approval. In other words, you have to get  
19 your plat signed and get it filed with the County  
20 Clerk within those time limits. You might find  
21 that you have a subdivision that gets filed and  
22 the market collapses and you have lots for sale  
23 for years and years that just don't sell. So  
24 your subdivision is still valid as long as the  
25 plat is signed and filed with the County Clerk in

2 time.

3 CHAIRMAN BRAND: But don't they have to  
4 file the original plan of what was approved?5 MR. BATTISTONI: They do, yes. The  
6 original plat is filed with the Town clerk.7 MS. LANZETTA: That's what I'm saying.  
8 Our Town building inspector said if they turned  
9 around and wanted to put four houses on a private  
10 road, that he could not deny them COs.11 MR. BATTISTONI: Again, I'd have to  
12 look at that. I don't know where he's getting  
13 his information from. He must have a source for  
14 that. I'd like to see what that is.

15 MS. LANZETTA: Okay.

16 CHAIRMAN BRAND: It's probably the Code  
17 that allows it.18 Are you saying that the original  
19 subdivision that was approved was more than four?

20 MS. LANZETTA: Yeah. Yeah.

21 CHAIRMAN BRAND: Okay. So the original  
22 subdivision is more than four.23 MR. TRAPANI: Is it a major  
24 subdivision?

25 MS. LANZETTA: Yeah.

2 CHAIRMAN BRAND: Which would require --  
3 you wouldn't be able to do that, but now he's  
4 just building four and using a private road  
5 because that's allowable under Town Code pretty  
6 much?

7 MS. LANZETTA: Mm'hm'.

8 MR. GAROFALO: I would think that you  
9 would have to --

10 MR. TRAPANI: Come back.

11 MR. GAROFALO: -- come back and change  
12 the subdivision so there wouldn't be ten lots  
13 there.

14 MS. LANZETTA: That's what I would  
15 think, but then I'm hearing this -- I guess we  
16 would have to involve the Town building inspector  
17 -- the zoning code enforcement officer to be  
18 involved in that.

19 MR. BATTISTONI: Is it worth the  
20 Planning Board sending a notice under 134-6 that  
21 you're requiring the replatting of that  
22 subdivision to get the owner back in? It seems  
23 to me that's something you could consider here.

24 MR. GAROFALO: If you're going to do  
25 that, you probably should do it as a general

2 letter saying that under the -- you know, if the  
3 original approval had a public road and they are  
4 now going to put in a private road, that we want  
5 them to come back to do it in a more general form  
6 and not just pick one --

7 MS. LANZETTA: I think we have to get  
8 the Town zoning code enforcement officer involved  
9 in the conversation so we are all on the same  
10 page, because I don't know what --

11 MR. GAROFALO: Yeah. You want him to  
12 be able to, A, understand the code and get his  
13 opinion on whether or not if you're going to make  
14 a change like that to, you know, see what he says  
15 about it.

16 CHAIRMAN BRAND: So Jeff, maybe you can  
17 do a little research and then ask the question of  
18 the code enforcement officer? See where he is?  
19 Okay?

20 MR. BATTISTONI: Yes.

21 MS. LANZETTA: Yeah. We keep going  
22 kind of around on this.

23 MR. CAUCHI: Let's see if I get this  
24 right. Let's say -- let's put some numbers to  
25 it. Let's say it was a subdivision with eight

2 lots with a Town road. He got his approval.

3 Some time went by and all of a sudden he changes  
4 his mind, he doesn't want to go through the whole  
5 expense of a Town road, all the requirements that  
6 go with it. He's going to put up four houses and  
7 a private road. We're saying that that should be  
8 okay, he does not -- he can do that switch from  
9 the approval of the eight lots with the Town road  
10 to four lots with a private road, he can do that  
11 change without coming to us? That the building  
12 inspector could go ahead and do that? Is that  
13 what's on the table?

14 MS. LANZETTA: That's what the building  
15 inspector was saying.

16 MR. CAUCHI: All right.

17 MS. LANZETTA: I'm thinking that that's  
18 not the case.

19 MR. CAUCHI: You're saying that he  
20 should come back to us?

21 MS. LANZETTA: Well that -- yeah,  
22 because it's -- otherwise why come to us in the  
23 first place?

24 MR. LOFARO: Any time there's a change  
25 why --

2 MR. TRAPANI: The major subdivision and  
3 everything is signed and everything. Where does  
4 that go?

5 MS. LANZETTA: County.

6 MR. TRAPANI: To the County. How is  
7 the County going to know that it was changed  
8 unless it's been changed by us or whomever?

9 MS. LANZETTA: Yeah.

10 MR. TRAPANI: They're going to look at  
11 it and say oh, it's a major subdivision, they  
12 have Town roads and everything else. Come back  
13 and say oh, you know, you guys approved it and  
14 now we have it as this but it's a private road.  
15 I think they would have to come back.

16 CHAIRMAN BRAND: I like the idea of,  
17 you know, requiring them to come back if that's  
18 in the code and we can force them to come back  
19 and replat it.

20 MS. LANZETTA: Well I'm not saying that  
21 they have to -- this would have come up if we  
22 would have had the people coming about the  
23 logging situation because that would have raised  
24 a lot of questions regarding the particular  
25 subdivision that they wanted to log on. I'm just

2 saying as a general thing, because the building  
3 -- the code enforcement officer said that well  
4 they can do certain things on their property. In  
5 fact, the letter he sent out -- where is that  
6 letter he sent us on the Truncali thing? Do you  
7 have that in your file by any chance? The  
8 referral on that logging thing. I think he might  
9 have said in there that he could -- they could  
10 technically put four houses on a private road for  
11 that.

12 CHAIRMAN BRAND: I don't have it here.

13 MS. LANZETTA: I left it home.

14 MR. GAROFALO: I could see how it would  
15 be reasonable for them to say okay, I'm going to  
16 build the public road and only put four houses up  
17 and not put the other ones up, but it's the issue  
18 of can you just change from a public to a private  
19 road.

20 MR. LOFARO: I agree with what you're  
21 saying. Right.

22 CHAIRMAN BRAND: He's probably under  
23 the assumption that since it's allowed, that you  
24 could build the four but if you put in the fifth  
25 or the sixth, then you have to go ahead and

2 construct the road, because the four is allowed.

3 MR. LOFARO: It doesn't sound like it's  
4 written that way.

5 CHAIRMAN BRAND: I think it is written  
6 that way. You're allowed to have four on a  
7 private road. He's saying, I'm assuming, that as  
8 long as you're only putting up four and four is  
9 allowable on a private road, that they're able to  
10 do that. But should you put five, six, seven,  
11 add those, then they would be bound to put in the  
12 Town road.

13 MR. GAROFALO: You have to put up a  
14 bond for a public road.

15 CHAIRMAN BRAND: Yeah. Sounds like you  
16 have your homework --

17 MR. GAROFALO: A bond would just hang  
18 until --

19 MR. BATTISTONI: I'll look into it and  
20 get an answer for you.

21 MR. CAUCHI: But that's not the talking  
22 point right now. The talking point is it was  
23 approved for an eight-lot subdivision with a Town  
24 road. That work was approved. So now you're  
25 going to four homes on a private road. There

2 needs some legality to transfer to that right  
3 there. So what we're asking is does the code  
4 enforcer have the authority to do that or does he  
5 need -- the code enforcer needs to send him to  
6 us. That's the question, I think, that we're  
7 trying to --

8 CHAIRMAN BRAND: Yeah.

9 MR. CAUCHI: -- understand.

10 CHAIRMAN BRAND: I think we have the --  
11 it's clear that we have the right to ask them to  
12 come back. Right?

13 MR. BATTISTONI: 134-6, the Planning  
14 Board may require.

15 CHAIRMAN BRAND: So we absolutely have  
16 that within our parameters to be able to do that.

17 MS. LANZETTA: I can't find that letter  
18 right now. We'll look at that letter and see  
19 what -- just to make sure that the code  
20 enforcement officer understands where we're --  
21 what we're thinking and that we're all in the  
22 same --

23 MR. GAROFALO: The only way we would  
24 know, though, is if the code enforcement officer  
25 came to us or the applicant came to us.

2 MR. CAUCHI: Obviously he feels that he  
3 doesn't -- he feels he's authorized to do that.  
4 That's why we don't have them -- they're not  
5 coming to us. The thing is does he have that  
6 authorization is what we need to know, and be  
7 able to bring it to his attention if he doesn't.

8 MR. GAROFALO: And decide how do we  
9 really want to handle it.

10 MR. CAUCHI: First we need to know --

11 MR. GAROFALO: What it is.

12 MR. CAUCHI: Exactly.

13 MR. GAROFALO: I agree.

14 CHAIRMAN BRAND: Anything else?

15 MS. LANZETTA: No. That's it.

16 CHAIRMAN BRAND: Motion to close?

17 MR. CAUCHI: I'll make that motion.

18 CHAIRMAN BRAND: Is there a second?

19 MR. GAROFALO: I'll second.

20 CHAIRMAN BRAND: All those in favor?

21 MR. TRAPANI: Aye.

22 MS. LANZETTA: Aye.

23 MR. GAROFALO: Aye.

24 MR. CAUCHI: Aye.

25 MR. LOFARO: Aye.

2 CHAIRMAN BRAND: Aye.

3 See you next time.

4 (Time noted: 8:14 p.m.)

5

6 CERTIFICATION

7

8 I, MICHELLE CONERO, a Notary Public

9 for and within the State of New York, do hereby

10 certify:

13 I further certify that I am not

14 related to any of the parties to this proceeding by  
15 blood or by marriage and that I am in no way  
16 interested in the outcome of this matter.

17 IN WITNESS WHEREOF, I have hereunto  
18 set my hand this 18th day of March 2020.

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Michelle Conero

MICHELLE CONERO