

1

2 STATE OF NEW YORK : COUNTY OF ULSTER
3 TOWN OF MARLBOROUGH PLANNING BOARD
4 - X
In the Matter of

5

6 FRANKOS SHORT-TERM RENTAL

7 Project No. 21-5024
8 387 Lattintown Road, Marlboro
Section 108.2; Block 9; Lot 26

9 - X

10 PUBLIC HEARING - MINOR SITE PLAN

11 Date: March 7, 2022
12 Time: 7:30 p.m.
13 Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

14

15 BOARD MEMBERS: CHRIS BRAND, Chairman
CINDY LANZETTA
16 JOSEPH LOFARO
JAMES GAROFALO
17 ROBERT TRONCILLITO
STEPHEN JENNISON

18

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

20

21 APPLICANT'S REPRESENTATIVE: MARK FRANKOS &
WHITNEY BALDWIN

22

23 - X
MICHELLE L. CONERO
3 Francis Street
24 Newburgh, New York 12550
25 (845) 541-4163

1 F R A N K O S S H O R T - T E R M R E N T A L

2 CHAIRMAN BRAND: Good evening.

3 I'd like to call the meeting to order
4 with the Pledge of Allegiance to the
5 flag of our country.

6 (Pledge of Allegiance.)

7 CHAIRMAN BRAND: Agenda, Town
8 of Marlborough Planning Board,
9 Monday, March 7, 2022. Regular
10 meeting at 7:30 p.m. On the agenda
11 tonight we have the approval for the
12 stenographic minutes for February
13 7th. We have the Frankos Short-Term
14 Rental at 387 Lattintown Road, a
15 public hearing for their minor site
16 plan; the Qiang Subdivision at 24
17 Plattekill Road in Marlboro, a final
18 for their subdivision; Ashlyen
19 Guarino at 5 Ashlyen Drive in
20 Marlboro, a sketch of their
21 subdivision; the Verizon at the
22 Marlboro High School at 50 Cross Road
23 in Marlboro, a sketch of their site
24 plan; and the Pollock Site Plan at 39
25 Main Street in Milton, a sketch of

1 F R A N K O S S H O R T - T E R M R E N T A L

2 their site plan. The next deadline
3 is Friday, March 11th. The next
4 scheduled meeting is Monday,
5 March 21, 2022.

6 Anything from the Board before
7 we jump in?

8 (No response.)

9 CHAIRMAN BRAND: No. All right
10 then. I'd like to have a motion for
11 the approval of the stenographic
12 minutes for 2/7, please.

13 MR. LOFARO: I'll make that
14 motion.

15 CHAIRMAN BRAND: Joe.

16 MR. TRONCILLITO: I'll second
17 it.

18 CHAIRMAN BRAND: Bobby on the
19 second. Any opposed?

20 (No response.)

21 CHAIRMAN BRAND: So moved.

22 First on the agenda tonight we
23 have a public hearing for Frankos
24 Short-Term Rental for their minor
25 site plan.

1 FRANKOS SHORT-TERM RENTAL

Legal notice. Minor site plan application. Please take notice a public hearing will be held by the Marlborough Planning Board pursuant to the State Environmental Quality Review Act, or SEQRA, and the Town of Marlborough Town Code Section 155-31 on Monday, March 7, 2022 for the following application: Frankos Short-Term Rental. The public hearing will be at 7:30 p.m. or as soon thereafter as may be heard. The applicant is asking for a minor site plan approval on lands located at 387 Lattintown Road, Marlboro, Section 108.2, Block 9, Lot 26. Any interested parties either for or against this proposal will have an opportunity to be heard at this time. Chris Brand, Chairman, Town of Marlborough Planning Board.

22 How are you tonight?

23 MS. BALDWIN: Good. How are
24 you?

25 CHAIRMAN BRAND: Good. How

1 F R A N K O S S H O R T - T E R M R E N T A L

2 about the mailings. How many did we
3 send out, how many came back?

4 MS. BALDWIN: We sent out 22
5 and 21 were delivered. One was
6 forwarded.

7 CHAIRMAN BRAND: Say that --
8 I'm sorry. Can you just repeat that?

9 MS. BALDWIN: We sent out 22.
10 21 were delivered and one was
11 forwarded.

12 CHAIRMAN BRAND: Okay. Pat,
13 would you just start us off with your
14 comments, please?

15 MR. HINES: Our previous
16 comments have been addressed.

17 I know we just received the 10
18 by 20 parking space plan.

19 I don't have any outstanding
20 comments on this. It's here for the
21 public hearing.

22 I believe Jeff has prepared a
23 draft approval resolution as well, if
24 no substantive comments are heard at
25 the public hearing.

1 F R A N K O S S H O R T - T E R M R E N T A L

2 CHAIRMAN BRAND: Great. Thank
3 you.

4 Anything from the Board?

5 (No response.)

6 CHAIRMAN BRAND: No comments
7 from the Board.

8 This is a public hearing. If
9 there are any interested parties
10 either for or against this or would
11 like to be heard, you have an
12 opportunity to do so. Please just
13 come up to the mic and state your
14 name for the record.

15 (No response.)

16 CHAIRMAN BRAND: Anyone?

17 (No response.)

18 CHAIRMAN BRAND: Okay. All
19 right. Then Jeff, you did prepare a
20 resolution. Is there anything you'd
21 like to point out for us?

22 MR. BATTISTONI: Yes. I would
23 point out the following: You do have
24 -- the Town has a relatively new
25 short-term rental law and -- bear

1 F R A N K O S S H O R T - T E R M R E N T A L

2 with me a second. It's subsection 4.
3 There are many items that are listed
4 that are supposed to be addressed by
5 the applicant. There's 4-B and it
6 continues on to C. They're simple
7 things like the address of the
8 property, the boundary lines of the
9 property, names and uses of all
10 adjoining property owners. It goes
11 on and on. So what I did in my
12 resolution is I simply said that to
13 the extent that they haven't provided
14 information to address each item
15 listed, that you grant a waiver
16 blankety.

17 James Garofalo sent me an
18 e-mail today and said that we
19 shouldn't do that, we should have
20 every item addressed here or each
21 specific item that is being waived
22 should be listed out. So I just
23 point that out to the Board. My
24 resolution doesn't do that. That's
25 up to the Board. Do you understand

1 F R A N K O S S H O R T - T E R M R E N T A L

2 what I'm saying?

3 CHAIRMAN BRAND: Not exactly.

4 Could you just --

5 MS. LANZETTA: I don't think we
6 factored in -- I don't think that we
7 factored that in because the law is
8 so new that this -- I was thinking at
9 first it was multi-family, but it's
10 not apparently a multi-family house.

11 Is it? Under our conditions. So that
12 means that it could be a short-term
13 rental usage.

14 MR. BATTISTONI: I have it as a
15 short-term rental. That's what this
16 is. Your code requires various
17 specific items of information that
18 are supposed to be submitted. It
19 says the Planning Board may waive or
20 allow deferred submission of any of
21 the information. It says the
22 Planning Board shall issue a written
23 statement of waivers. So in my
24 approval resolution I have, I'm going
25 to say under the resolved paragraph

1 F R A N K O S S H O R T - T E R M R E N T A L

2 number 3, it just says the Planning
3 Board finds that the narrative
4 description of the proposed project
5 as defined in Town Code Section
6 155-31-E(4)(b) is satisfactory, and
7 to the extent that any required
8 information has not been submitted,
9 grants a waiver for the submission of
10 that information. I kind of just in
11 a blanket sense refer to it.

12 CHAIRMAN BRAND: So basically
13 they've submitted everything that
14 they need to via our discussions and
15 their application process?

16 MS. LANZETTA: They haven't.

17 MR. HINES: It's up to the
18 Board to decide that.

19 MR. BATTISTONI: Right. And
20 they haven't submitted everything.
21 You're saying they have enough
22 information and you're waiving it in
23 a blanket sense.

24 MR. HINES: The Town Board,
25 when they adopted the short-term

1 F R A N K O S S H O R T - T E R M R E N T A L

2 rental back in April 2021, the short-
3 term rental is considered a minor
4 site plan. Your findings are limited
5 to the use complies with applicable
6 zoning standards, conforms to the
7 Town's planning goals and objectives
8 as addressed in the comprehensive
9 plan, and it's sufficiently serviced
10 by utilities and infrastructure. So
11 that limits your review. They
12 precluded the laundry list of what
13 you would have if you were doing a
14 15-lot subdivision as a submittal,
15 all the requirements.

16 This applicant and several
17 other applicants have submitted this
18 one-page photocopy of a portion of
19 their survey that you've been
20 reviewing, which certainly doesn't
21 comply with the, I'll call it the
22 laundry list of items that are
23 typically required of a full-blown
24 site plan review. Your ordinance
25 does have that preamble to it, that

1 F R A N K O S S H O R T - T E R M R E N T A L

2 it's a shorter streamlined review
3 process.

4 We have approved a couple of
5 these with, you know, applicant
6 prepared maps, design professional
7 prepared plans.

8 To submit the items there they
9 would be retaining the services of a
10 design professional to give you a
11 survey and an engineered plan. I
12 don't believe that -- I can't speak
13 for the Town Board, but that section
14 of the code that limits your review
15 kind of speaks to the fact that there
16 should be this abbreviated review.

17 CHAIRMAN BRAND: Thank you for
18 that clarification.

19 MR. HINES: That's just my
20 opinion, though.

21 CHAIRMAN BRAND: Yeah.

22 MS. LANZETTA: I'm confused.

23 MR. GAROFALO: Mr. Chairman, if
24 I can explain myself. I think it's
25 somewhat dangerous to have a blanket

1 F R A N K O S S H O R T - T E R M R E N T A L

2 approval and that the specific
3 waivers should be identified so that
4 we can determine yes, this is for the
5 public good, that they don't have to
6 provide this information, that we
7 don't need it. I think that blanket
8 waivers are something that's
9 dangerous. I think if there are
10 specific things that are lacking,
11 that we should know what they are and
12 decide that we don't need them. If
13 we don't have that and we don't know
14 that we don't have that, how can we
15 decide one way or the other? I think
16 we really should know. Even if it's
17 a laundry list of things that they're
18 saying or we find that are not being
19 provided, let's go ahead and list
20 them out and say okay, that's fine.

21 CHAIRMAN BRAND: Thank you.

22 Jeff, in your opinion are the
23 missing pieces from the
24 aforementioned laundry list really
25 required for this, do you think, or

1 F R A N K O S S H O R T - T E R M R E N T A L

2 -- obviously not since you --

3 MR. BATTISTONI: The Town --

4 excuse me. The Planning Board

5 clearly has the ability to waive

6 information and issue a written

7 statement of waiver. You could list

8 out every single thing that's not

9 supplied or you could, as I've done,

10 grant a blanket waiver saying to the

11 extent that any of the required

12 information is not supplied, you're

13 granting a waiver from that.

14 CHAIRMAN BRAND: Got you.

15 MR. BATTISTONI: We've done

16 that in past resolutions.

17 MR. LOFARO: If we waive this

18 one are we bound to waive all the

19 future ones or that's still as they

20 come along?

21 MR. BATTISTONI: No. If you

22 wanted to tighten up your procedure

23 on future applications, list out

24 every single one of these items and

25 say okay, 1, 3, 5 and 9 were

1 F R A N K O S S H O R T - T E R M R E N T A L

2 submitted and we're waiving 2, 4, 6
3 and 8, you could do that.

4 MS. BALDWIN: Can I ask a
5 question?

6 CHAIRMAN BRAND: Yes.

7 MS. BALDWIN: Is this new
8 legislation that was created after we
9 initially did our application or is
10 this stuff that we originally left
11 out?

12 CHAIRMAN BRAND: No, it was not
13 new since you submitted your
14 application. The short-term rental
15 process in general is relatively new
16 to the Town but not --

17 MR. HINES: April '21.

18 CHAIRMAN BRAND: -- not new
19 since you submitted your application.

20 Any other questions or
21 comments?

22 MR. GAROFALO: I would like to
23 make one more comment. That is, I
24 think the Town Board designed this so
25 that we wouldn't need a professional

1 F R A N K O S S H O R T - T E R M R E N T A L

2 and all of these items could be
3 easily provided without having a
4 design professional involved. Thank
5 you.

6 CHAIRMAN BRAND: All right.

7 Any other questions or comments?

8 (No response.)

9 CHAIRMAN BRAND: I did notice
10 some other people just came in. Is
11 anyone that just came in here for the
12 public hearing? Yes? You're not
13 here for the public hearing I don't
14 think.

15 UNIDENTIFIED SPEAKER: No.

16 CHAIRMAN BRAND: Anyone else?

17 (No response.)

18 CHAIRMAN BRAND: No.

19 All right. Well that being
20 said, we do have a resolution
21 prepared by the attorney for the
22 Planning Board of the Town of
23 Marlborough for the application of
24 Mark Frankos for the minor site plan
25 application for a short-term rental

1 F R A N K O S S H O R T - T E R M R E N T A L

2 unit. Chairman Chris Brand offered
3 the following resolution which was
4 seconded by Steve Jennison who moved
5 for its adoption.

6 Jen, would you poll the Board.

7 MS. FLYNN: Chairman Brand?

8 CHAIRMAN BRAND: Yes.

9 MS. FLYNN: Member Clarke?

10 CHAIRMAN BRAND: Absent.

11 MS. FLYNN: Member Garofalo?

12 MR. GAROFALO: Yes.

13 MS. FLYNN: Member Jennison?

14 MR. JENNISON: Yes.

15 MS. FLYNN: Member Lanzetta?

16 MS. LANZETTA: Yes.

17 MS. FLYNN: Member Lofaro?

18 MR. LOFARO: Yes.

19 MS. FLYNN: Member Troncillito?

20 MR. TRONCILLITO: Yes.

21 CHAIRMAN BRAND: All right. I
22 would like a motion to close the
23 public hearing.

24 MR. LOFARO: I'll make a motion
25 to close the public hearing.

1 F R A N K O S S H O R T - T E R M R E N T A L

2 CHAIRMAN BRAND: Joe. A second?

3 MR. JENNISON: I'll second it.

4 CHAIRMAN BRAND: Any discussion?

5 (No response.)

6 CHAIRMAN BRAND: Any objection?

7 (No response.)

8 CHAIRMAN BRAND: All right. We
9 are all set then.

10 MS. FLYNN: Can we just state
11 the woman who spoke earlier for
12 Michelle?

13 CHAIRMAN BRAND: Yes. Could
14 you just please state your name? I'm
15 sorry.

16 MS. BALDWIN: Yes. Whitney
17 Baldwin.

18 CHAIRMAN BRAND: Excellent.
19 Thank you. You guys are all set with
20 us.

21 MR. FRANKOS: Thank you very
22 much.

23 I believe the next step then is
24 to contact the Building Department
25 and move to schedule the inspection

1 F R A N K O S S H O R T - T E R M R E N T A L

2 of the smoke detectors and fulfill
3 that part of the application. Is
4 that correct?

5 CHAIRMAN BRAND: Correct.

6 MR. FRANKOS: Thank you so
7 much.

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9 (Time noted: 7:48 p.m.)

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1 F R A N K O S S H O R T - T E R M R E N T A L

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

4

5

6 I, MICHELLE CONERO, a Notary Public
7 for and within the State of New York, do
8 hereby certify:

9 That hereinbefore set forth is a true
10 record of the proceedings.

11 I further certify that I am not
12 related to any of the parties to this
13 proceeding by blood or by marriage and that
14 I am in no way interested in the outcome of
15 this matter.

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 16th day of March 2022.

18

19

20

Michele Conero

22

MICHELLE CONERO

23

24

25

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2 STATE OF NEW YORK : COUNTY OF ULSTER
3 TOWN OF MARLBOROUGH PLANNING BOARD
4 - X
In the Matter of

5

6 QIANG SUBDIVISION

7 Project No. 21-5022
8 24 Plattekill Road, Marlboro
Section 108.2; Block 7; Lot 32.22

9 - X

10

FINAL - SUBDIVISION

11

12 Date: March 7, 2022
13 Time: 7:48 p.m.
14 Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

15

BOARD MEMBERS: CHRIS BRAND, Chairman
CINDY LANZETTA
JOSEPH LOFARO
JAMES GAROFALO
ROBERT TRONCILLITO
STEPHEN JENNISON

16

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

17

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

18

- X
MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

19

1 Q I A N G S U B D I V I S I O N

2 CHAIRMAN BRAND: All right.

3 Next on the agenda we have the Qiang
4 Subdivision at 24 Plattekill Road for
5 a final of their subdivision.

6 Pat, back to you. Would you
7 like to just run through your
8 comments on this one?

9 MR. HINES: This is a three-lot
10 subdivision. There's one existing
11 structure and two new duplexes
12 proposed.

13 The applicant had appeared
14 before the Zoning Board in January
15 and received variances on pre-
16 existing conditions on the site.

17 I can't hear myself. I'm sure
18 you guys can't hear me.

19 I talked to the engineer today
20 and they stated that the County is
21 not interested in obtaining the
22 dedication parcels from the center
23 line. I requested that they provide
24 us with a letter to that effect. The
25 person at the County said he's not

1 Q I A N G S U B D I V I S I O N

2 authorized to write such a letter.

3 You have to wait for his boss to do

4 that. We don't have that yet. I

5 know there's a condition in the

6 approval identifying that. That can

7 remain. If we get that letter it

8 will address the conditions of the

9 approval. So we just wanted

10 confirmation of that.

11 The only other outstanding item

12 we have is the Health Department

13 hasn't signed off on the septic

14 systems yet. That will be a

15 condition of approval as well.

16 My comments you have before you

17 are dated February 7th only because

18 your meeting today has the same day.

19 It's March 7th. I have a much

20 shorter comment list. Kathleen

21 stapled the wrong one to your packet.

22 Hopefully the one that went out

23 e-mail had this one.

24 Those are the three comments

25 that I have.

1 Q I A N G S U B D I V I S I O N

2 CHAIRMAN BRAND: All right.

3 Any comments or questions from the
4 Board?

5 (No response.)

6 CHAIRMAN BRAND: Jeff, anything
7 we should know about the documents
8 you prepared for us this evening?

9 MR. BATTISTONI: I included as
10 conditions the things that Pat Hines
11 had listed in his letter. They're
12 all there as conditions.

13 If it turns out the County does
14 not want the roadway dedication and
15 sends us a letter to that effect,
16 that's fine. That would satisfy the
17 condition as far as I'm concerned.

18 I think the resolutions are
19 both ready as is the short
20 environmental assessment form parts 2
21 and 3.

22 CHAIRMAN BRAND: All right.

23 That being said, you have before you
24 the application of the Qiang
25 Subdivision, from the Town of

1 Q I A N G S U B D I V I S I O N

2 Marlborough Planning the SEQRA
3 negative declaration and notice
4 determination of nonsignificance.

5 Jen, would you poll the Board.

6 MS. FLYNN: Chairman Brand?

7 CHAIRMAN BRAND: Yes.

8 MS. FLYNN: Member Lanzetta?

9 MS. LANZETTA: Yes.

10 MS. FLYNN: Member Lofaro?

11 MR. LOFARO: Yes.

12 MS. FLYNN: Member Clarke?

13 CHAIRMAN BRAND: Absent.

14 MS. FLYNN: Member Garofalo?

15 MR. GAROFALO: Yes.

16 MS. FLYNN: Member Troncillito?

17 MR. TRONCILLITO: Yes.

18 MS. FLYNN: Member Jennison?

19 MR. JENNISON: Yes.

20 CHAIRMAN BRAND: You also have
21 before you the application for the
22 Qiang Subdivision, the resolution of
23 approval by the Town of Marlborough
24 Planning Board.

25 Jen, would you poll the Board.

1 Q I A N G S U B D I V I S I O N

2 MS. FLYNN: Chairman Brand?

3 CHAIRMAN BRAND: Yes.

4 MS. FLYNN: Member Lanzetta?

5 MS. LANZETTA: Yes.

6 MS. FLYNN: Member Lofaro?

7 MR. LOFARO: Yes.

8 MS. FLYNN: Member Clarke?

9 CHAIRMAN BRAND: Absent.

10 MS. FLYNN: Member Garofalo?

11 MR. GAROFALO: Yes.

12 MS. FLYNN: Member Troncillito?

13 MR. TRONCILLITO: Yes.

14 MS. FLYNN: Member Jennison?

15 MR. JENNISON: Yes.

16 CHAIRMAN BRAND: All right. We
17 also have the recreation fee findings
18 by the Town of Marlborough Planning
19 Board. Whereas the Planning Board
20 has reviewed a subdivision
21 application known as the Qiang
22 Subdivision with respect to real
23 property located at 24 Plattekill
24 Road in the Town of Marlborough,
25 Chairman Brand offered the following

1 Q I A N G S U B D I V I S I O N

2 resolution, seconded by Member
3 Lanzetta. It is hereby resolved that
4 the Planning Board make the following
5 findings pursuant to Section 277-4 of
6 the Town Law. Based on the present
7 and anticipated need for future park
8 and recreational opportunities in the
9 Town of Marlborough and to which the
10 future population of this subdivision
11 will contribute, parkland should be
12 created as a condition of approval of
13 the subdivision. However, a suitable
14 park of adequate size to meet the
15 above requirement cannot be properly
16 located within the proposed project
17 site. Accordingly, it is appropriate
18 that in lieu of providing parkland,
19 the project sponsors render to the
20 Town payment of a recreation fee to
21 be determined in accordance with the
22 prevailing schedule established for
23 that purpose by the Town of
24 Marlborough. This approved
25 subdivision known as Qiang resulted

1 Q I A N G S U B D I V I S I O N

2 in two lots for a total of \$4,000 in
3 recreation fees. Whereupon the
4 following vote was taken:

5 Chairman Brand, yes.

6 Member --

7 MS. FLYNN: Jennison.

8 CHAIRMAN BRAND: -- Jennison?

9 MR. JENNISON: Yes.

10 CHAIRMAN BRAND: Clarke is
11 absent.

12 Garofalo?

13 MR. GAROFALO: Yes.

14 CHAIRMAN BRAND: Lanzetta?

15 MS. LANZETTA: Yes.

16 CHAIRMAN BRAND: Lofaro?

17 MR. LOFARO: Yes.

18 CHAIRMAN BRAND: Troncillito?

19 MR. TRONCILLITO: Yes.

20 CHAIRMAN BRAND: Excellent. I
21 think that does it for the Qiang
22 Subdivision. Thank you.

23 MR. BROWN: Thank you.

24 CHAIRMAN BRAND: Good luck.

25 (Time noted: 7:56 p.m.)

1 Q I A N G S U B D I V I S I O N

2

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

4

5 I, MICHELLE CONERO, a Notary Public
6 for and within the State of New York, do
7 hereby certify:

8 That hereinbefore set forth is a true
9 record of the proceedings.

10 I further certify that I am not
11 related to any of the parties to this
12 proceeding by blood or by marriage and that
13 I am in no way interested in the outcome of
14 this matter.

15 IN WITNESS WHEREOF, I have hereunto
16 set my hand this 16th day of March 2022.

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Michele Conero

21

MICHELLE CONERO

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2 STATE OF NEW YORK : COUNTY OF ULSTER
3 TOWN OF MARLBOROUGH PLANNING BOARD
4 - X
In the Matter of

4

5

ASHLYEN GUARINO

6

7 Project No. 20-4016
5 Ashlyen Drive, Marlboro
8 Section 108.2; Block 9; Lots 41 & 71
9 - X

10

SKETCH - SUBDIVISION

11

12 Date: March 7, 2022
13 Time: 7:56 p.m.
14 Place: Town of Marlborough
15 Town Hall
16 21 Milton Turnpike
17 Milton, NY 12547
18

19

BOARD MEMBERS: CHRIS BRAND, Chairman
CINDY LANZETTA
JOSEPH LOFARO
JAMES GAROFALO
ROBERT TRONCILLITO
STEPHEN JENNISON

20

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

21

APPLICANT'S REPRESENTATIVE: PATTI BROOKS

22

- X
MICHELLE L. CONERO
3 Francis Street
23 Newburgh, New York 12550
24 (845) 541-4163
25

1 A S H L Y E N G U A R I N O

2 CHAIRMAN BRAND: Next on the
3 agenda we have the Ashlyen Guarino
4 Subdivision at 5 Ashlyen Drive in
5 Marlboro.

6 MS. BROOKS: Good evening.

7 CHAIRMAN BRAND: How are you
8 tonight? Do you just want to give us
9 an overview of where we are this
10 evening?

11 MS. BROOKS: Absolutely. We
12 originally, in November of 2020, had
13 submitted an application for a three-
14 lot subdivision that was subsequently
15 changed to a two-lot subdivision in
16 November of 2021.

17 We have submitted, since the
18 last meeting, the Board of Health
19 approval, the driveway regrading that
20 was requested. We had previously
21 submitted a letter from the highway
22 superintendent.

23 We still are actually at sketch
24 stage on this. We have not had a
25 public hearing yet. We're looking

1 A S H L Y E N G U A R I N O

2 forward to moving the project forward
3 this evening.

4 CHAIRMAN BRAND: Pat, would you
5 run through your comments?

6 MR. HINES: So my first comment
7 defers to Jeff. Jeff has provided
8 the Board with some information
9 regarding the access.

10 We did receive approval for the
11 septic system dated 21 January.

12 We had previously requested
13 grading on the driveway. That
14 grading has been provided. The
15 grading shows it going offsite onto
16 lot 2 -- from lot 2 onto lot 1, and
17 we're suggesting that that grading --
18 an easement for that grading be
19 provided so that when the applicant
20 or the owner of lot 2 goes to do that
21 grading, they are permitted to do so.

22 CHAIRMAN BRAND: Pat -- sorry.
23 Jeff, do you just want to give us an
24 overview for the record of your
25 comments regarding the access road?

1 ASHLYEN GUARINO

2 MR. BATTISTONI: I will. It's
3 a little complicated.

4 CHAIRMAN BRAND: Excellent.

5 MR. BATTISTONI: New York State
6 Town Law has Section 280-a, and I
7 supplied a copy to all the Planning
8 Board Members, it's entitled permits
9 for buildings not on approved map
10 streets. So Ruby Road is owned by
11 the Town but it's partially improved.
12 Part of it is not improved.

13 Basically Section 280-a says that a
14 building permit shall not be issued
15 for a building that's on a map street
16 that's not improved except if various
17 things happen. So one is that an
18 applicant can post a performance bond
19 to ensure the improvement of the
20 road. One is that the applicant go
21 to the ZBA to get what's called an
22 area variance regarding construction
23 of the structure on an unimproved
24 road. One is that the Town Board can
25 task what's called a development area

1 A S H L Y E N G U A R I N O

2 to authorize this sort of
3 construction.

4 I looked in the Town Code and I
5 did not see a provision for open
6 development areas. It would be up to
7 the Town Board as to whether they
8 might want to request a performance
9 bond from this applicant or whether
10 the applicant might want to go to the
11 ZBA for an area variance just on the
12 issue of whether they can build on an
13 unimproved road. So I hope that's a
14 good summary.

15 MS. BROOKS: I agree a hundred
16 percent with what Jeff says according
17 to open development. In fact, I
18 think we both kind of used the same
19 bible. I've used that in the Town of
20 Newburgh, as Pat knows, in the Town
21 of Plattekill on multiple occasions
22 for open development.

23 What I don't necessarily agree
24 with is that this is the proper Board
25 to undertake that. The issue with

1 A S H L Y E N G U A R I N O

2 280-a is with regard to a building
3 permit being issued. So we're here
4 now for a subdivision, and we are
5 requesting a subdivision where we do
6 have frontage on a Town improved
7 road. So the first condition of that
8 is met.

9 The second condition is with
10 regard to getting a building permit
11 and having the road suitably
12 improved. So whether the applicant
13 decides to improve the road himself
14 or go for an area variance, this
15 Board would be granting approval to
16 this with knowledge of that. It has
17 frontage on a Town improved road
18 that's part of a subdivision plat,
19 but that the applicant would not
20 necessarily get a building permit
21 unless they were able to meet the
22 conditions of 280-a.

23 So I agree a hundred percent
24 with the concept, it's just that
25 we're not necessarily at that point

1 ASHLYEN GUARINO

2 right now that it's required.

3 CHAIRMAN BRAND: Jeff?

4 MR. BATTISTONI: I'm looking at
5 the New York State Town Law Section
6 280-a Subdivision 2. It says,
7 "Before such permit shall be issued,
8 such street or highway shall have
9 been suitably improved to the
10 satisfaction of the town board or the
11 planning board." So I kind of think
12 this is an issue for the Planning
13 Board. I think that initially this
14 section of law addresses a building
15 permit being issued but this
16 subsection talks about suitably
17 improved to the satisfaction of town
18 board or the planning board. So I do
19 think it's something the Planning
20 Board should address.

21 CHAIRMAN BRAND: So Patti, do
22 you know which route you're going to
23 be taking on it, or the applicant?

24 If you can just state your name
25 for the stenographer as well.

1 A S H L Y E N G U A R I N O

2 MR. GUARINO: Hi, Mr. Chairman.

3 I'm Alan Guarino. Thanks for

4 listening to our view on this.

5 This is a really bizarre
6 situation, unfortunately. This is a
7 Town road and it's maintained by the
8 Town, it's plowed by the Town, and
9 it's been used for thirty years. It
10 was unfortunately not completed with
11 blacktop. This road simply lacks the
12 blacktop. Its width at this
13 particular location is actually wider
14 than the fully developed road.

15 What happened, none of us as
16 residents in the Town have ever come
17 back to redress this, is that at the
18 time the Town released the developer
19 prior to the developer completing the
20 road. The Town had a fiduciary
21 responsibility to ensure the road was
22 completed for the residents and the
23 Town. It failed to do that. The
24 developer got his deposit back and
25 this particular stretch of road was

1 A S H L Y E N G U A R I N O

2 short of a certain amount of
3 blacktop. If that had been done, I
4 don't think we'd be having this
5 discussion. We'd be taking a road
6 cut off of a road that has blacktop.
7 The fact of the matter is it's been
8 maintained for thirty years, it's
9 plowed. We all drive up and down it.
10 We always have. It's owned by the
11 Town.

12 So the question I think would
13 be well, gosh, if we go to this sort
14 of determination, then the question
15 is why do private citizens have to
16 improve a Town road that should have
17 been done correctly the first time?
18 So our view is since the highway
19 superintendent has made a
20 determination that the road is
21 acceptable from his office's
22 perspective for egress and access of
23 emergency vehicles, and that
24 particular piece of code states that
25 the standard is accessible for

1 A S H L Y E N G U A R I N O

2 emergency vehicles to be suitably
3 improved, our sense is that this
4 thing is fine as it is, and our hope
5 is that you would approve it.

6 CHAIRMAN BRAND: Jeff, where
7 does the highway superintendent's
8 letter fit into this in your opinion?

9 MR. BATTISTONI: He did issue a
10 letter which says that this section
11 of the road was not improved but to
12 build a house on it does not require
13 it to be improved. That was his
14 comment. I could read it if --

15 CHAIRMAN BRAND: Yes.

16 MR. BATTISTONI: Okay.

17 MR. JENNISON: I've got to ask
18 a question. What you're telling me
19 is that is a Town road that just
20 hasn't been paved?

21 MR. GUARINO: Yeah. It's about
22 150 feet that they got away with.

23 MR. JENNISON: So basically
24 it's the Town's responsibility to
25 pave the road. It kind of makes

1 A S H L Y E N G U A R I N O

2 sense.

3 CHAIRMAN BRAND: They plow it.

4 Is it dirt?

5 MR. GUARINO: It's really heavy
6 duty (inaudible). It kind of looks
7 like oil and chip.

8 CHAIRMAN BRAND: They plow it?

9 MR. GUARINO: They plow it all
10 the way to the end. It's a dead end
11 road that has about 150 feet it's
12 lacking blacktop. So back in the
13 day, who knows why, but somebody got
14 away without paving the road before
15 it was released.

16 MS. LANZETTA: So we have an
17 existing situation, which is not
18 good, that the previous developer did
19 not do their due diligence and the
20 Town was not paying attention, and
21 that's not unusual in this Town.

22 MS. BROOKS: Or any town.

23 MS. LANZETTA: It's our hope
24 that as a Planning Board we do a
25 better job going forward and hold

1 A S H L Y E N G U A R I N O

2 people accountable.

3 My concern is that if we allow
4 this -- first of all, I've driven up
5 there. Where the maps show this
6 driveway coming onto, that's, in my
7 opinion, not a very good area. I
8 certainly wouldn't want to purchase
9 that property and use that
10 entranceway to get -- just to get to
11 my driveway because -- you know, you
12 can look at it pretty well on the
13 Ulster County Parcel Viewer and you
14 can see where the entranceway is
15 quite a considerable amount far away
16 from where the pavement stops.

17 It does look like there's
18 additional property along the
19 southern side that could extend that
20 driveway longer so that it could
21 enter what is the paved area of the
22 roadway. I would think that that
23 would be a better idea for anybody
24 that's moving onto that property on
25 the western side to be able to access

1 A S H L Y E N G U A R I N O

2 it further down where the road is
3 blacktopped.

4 You know, I worry that if we
5 allow one driveway onto this
6 incomplete road, there's a lot of
7 property here, there's been other
8 attempts to develop these properties,
9 are we going to end up with six or
10 seven or eight driveways at the end
11 of this undone road? It just seems
12 to me that we could be exacerbating a
13 poor situation by allowing, you know,
14 continued development without doing
15 some kind of a finish, you know, on
16 this road.

17 MS. BROOKS: Yeah. I certainly
18 -- I understand your concerns.

19 One of the reasons that we
20 can't extend the lot to the paved
21 area is you can see that there's that
22 secondary gravel driveway there, the
23 lane that accesses the back of the
24 pool area and the back of the lot
25 that's being retained by Guarino.

1 A S H L Y E N G U A R I N O

2 They can't give up the access to the
3 back of their property, so that can't
4 happen. Certainly you can't have six
5 or seven more lots on it. The only
6 one who has road frontage at this
7 point in time are the Guarinos.

8 And again, I certainly -- I
9 think we all agree that this is an
10 issue that needs to be addressed, but
11 we haven't even gotten past sketch
12 yet. We did just receive the memo
13 from the attorney yesterday, so we
14 haven't had the time to discuss it
15 with him or the engineer and try to
16 come up with a mutually acceptable
17 resolution.

18 I mean I would hope that the
19 Board would consider, at this point
20 in time, to at least move this
21 forward to public hearing and give us
22 the opportunity to air the
23 application before the public while
24 we have the opportunity, at the same
25 time to discuss it with the town

1 A S H L Y E N G U A R I N O

2 consultants and try and come up with
3 a solution that will be acceptable to
4 everybody.

5 MS. LANZETTA: Could you just
6 explain to me one more time why they
7 can't move that driveway further
8 down --

9 MS. BROOKS: Sure.

10 MS. LANZETTA: -- to access --
11 I'm not seeing it on the map.

12 MS. BROOKS: I believe we have
13 the same map. So this gravel
14 driveway, --

15 MS. LANZETTA: Mm'hm'.

16 MS. BROOKS: -- that's on this
17 lot and accesses the back of this
18 pool area.

19 MS. LANZETTA: Mm'hm'.

20 MS. BROOKS: So if we took this
21 and moved it down to have access on
22 the blacktop, that would prevent them
23 from being able to use that driveway
24 to get to the back of their property.

25 MS. LANZETTA: You could have

1 A S H L Y E N G U A R I N O

2 an easement.

3 MS. BROOKS: Well we could also
4 have an easement now to get there --

5 MS. LANZETTA: Mm'hm'.

6 MS. BROOKS: -- from the other
7 lot if that's what the Board prefers.

8 MS. LANZETTA: To get to Ashlyen?

9 MS. BROOKS: Yeah.

10 MR. TRONCILLITO: I still think
11 it's the Town's responsibility.

12 MS. LANZETTA: I was looking at
13 that as well.

14 CHAIRMAN BRAND: Any other
15 comments or questions from the Board?

16 MR. GAROFALO: You also have,
17 where the gravel road is, basically a
18 joint access where both drives go to
19 Ruby Road together and then split
20 off.

21 MS. BROOKS: So you're saying
22 from the blacktop portion, spin off a
23 driveway there and have a cross
24 easement between the two lots?

25 MR. GAROFALO: What I'm saying

1 A S H L Y E N G U A R I N O

2 is continue to extend this all the
3 way down to Ruby Road and then allow
4 this gravel driveway off of that same
5 portion that connects to Ruby Road so
6 that both accesses would be on the
7 existing --

8 MS. BROOKS: I understand what
9 you're saying. I think --

10 MR. GAROFALO: I'm just
11 proposing that as something you might
12 want to think about.

13 MS. BROOKS: And I appreciate
14 the Board taking the time to try to
15 come up with solutions to what is a
16 very difficult issue. Certainly I
17 will be able to discuss all of them
18 with the applicant.

19 CHAIRMAN BRAND: Jeff, do you
20 think either of those solutions would
21 help clarify some of this, make it a
22 little bit easier?

23 MR. BATTISTONI: It certainly
24 would. What Member Lanzetta
25 suggested makes sense, moving the lot

1 A S H L Y E N G U A R I N O

2 line southeast to the point where it
3 would meet the paved portion of Ruby
4 Road. That would take care of the
5 issue. Lot 1 would maintain an
6 easement to travel over that gravel
7 lane. That would be easy enough to
8 do I would think.

9 MS. BROOKS: And what about the
10 alternative of leaving the lot lines
11 where they are and continuing the
12 access driveway around to the paved
13 part of the road? Did you get what
14 they were talking about with that,
15 Jeff?

16 MR. BATTISTONI: That was what
17 Mr. Garofalo just suggested.

18 MR. TRONCILLITO: Extend the
19 road down to where they are supposed
20 to.

21 MS. LANZETTA: I don't like
22 that because that's still on the
23 un-blacktopped portion.

24 MR. GAROFALO: That wasn't what
25 I was suggesting. I was suggesting

1 A S H L Y E N G U A R I N O

2 that the -- that you're not coming in
3 here but you're extending the
4 property further down so that it
5 could come into Ruby Road, and then
6 having the gravel access also join in
7 at that same point. So they would
8 both stay off the undeveloped portion
9 of Ruby Road and both connect --

10 MS. BROOKS: So the same thing
11 that Mrs. Lanzetta said.

12 MR. HINES: You're only
13 extending the lot line for lot 2
14 along what you just drew.

15 MR. GAROFALO: Basically the
16 same thing except both driveways
17 would use that connection to the
18 existing paved portion of Ruby Road.

19 CHAIRMAN BRAND: Jeff, do we
20 have a determination as to whether or
21 not -- what the status of this road
22 really is as far as whose
23 responsibility would it be to pave
24 this road? I mean if it is a Town
25 road --

1 A S H L Y E N G U A R I N O

2 MR. BATTISTONI: It is a Town
3 owned road. It's not uncommon for
4 unimproved roads to be dedicated to a
5 town and the town doesn't necessarily
6 improve them right away with drainage
7 and pavement. Sometimes years pass.
8 Sometimes with older subdivisions you
9 have paper streets that just go on
10 and on and on without ever getting
11 fully improved.

12 CHAIRMAN BRAND: Okay.

13 MR. BATTISTONI: I think now
14 would be a good time to clean this
15 up.

16 MR. GUARINO: Well that's the
17 issue. In this particular case it
18 wasn't actually engineered that way.
19 It was approved by the Town and it
20 was accepted by the Town as a fully
21 improved road. Sadly, whoever was in
22 charge at the time and released the
23 bond, released it without all the
24 improvements. So now as property
25 owners we're in a position where we

1 A S H L Y E N G U A R I N O

2 can't utilize the property if you
3 interpret this 100 and some odd feet
4 as a problem when ambulances and fire
5 trucks and emergency vehicles could
6 easily gain access. If the Town
7 wants to improve this road and
8 complete the project, that's the
9 Town's choice. Our view would be it
10 wouldn't be fair to hold up our
11 ability to access that property back
12 there when it wasn't anything we did.

13 MR. JENNISON: What's the
14 approximate footage that would have
15 to be blacktopped, ballpark?

16 MR. GUARINO: Probably 150
17 feet, maybe 200 if you wanted to go
18 overkill.

19 MR. JENNISON: Alan, are you
20 saying that the 150 feet has been --
21 gravel and oil has been put overtop
22 of it?

23 MR. GUARINO: Completely ready
24 to pave. It has been for thirty
25 years.

1 A S H L Y E N G U A R I N O

2 MR. JENNISON: Because we have
3 an alternate pavement finish course
4 in our code, surface treatments,
5 which I did in South Dakota when I
6 was in the Air Force. We'd spread
7 gravel and put tar over it and it was
8 considered a finished floor. Has
9 that been done?

10 MR. GUARINO: I would suspect
11 that it's been done because the --
12 this thing has been held up for
13 thirty years with plowing and --

14 MR. JENNISON: Our code allows
15 for that as an alternate finish
16 course.

17 MR. GUARINO: I mean what it
18 says is suitably improved. It
19 doesn't say paved. Is that code?
20 This to me is just a matter of, you
21 know, deferring to the highway
22 superintendent's expertise and saying
23 he's the one that can make
24 designation as to whether something
25 is suitably improved, and then we

1 A S H L Y E N G U A R I N O

2 simply have a road cut off of the
3 Town road and we're done, other than
4 the public hearing to complete the
5 process.

6 CHAIRMAN BRAND: So that being
7 said; Pat, and I guess Jeff more
8 importantly, do you feel that if we
9 were to schedule a public hearing at
10 this time, that we could clarify some
11 of these issues before that was to be
12 held and perhaps come up with an
13 alternate plan?

14 MR. BATTISTONI: I actually
15 think you should schedule a public
16 hearing. We can work on whether the
17 applicant might be willing to post a
18 performance bond or go to the ZBA for
19 a variance, or maybe the highway
20 superintendent would be willing to
21 install an alternate surface here.
22 We can investigate that between now
23 and the public hearing.

24 CHAIRMAN BRAND: Jen, when
25 would the next available date be for

1 A S H L Y E N G U A R I N O

2 that?

3 MS. FLYNN: April 4th.

4 CHAIRMAN BRAND: April 4th.

5 Are we comfortable scheduling that
6 public hearing for April 4 th?

7 MR. JENNISON: I am.

8 MR. LOFARO: I am.

9 CHAIRMAN BRAND: Any objection
10 to that?

11 (No response.)

12 CHAIRMAN BRAND: Does that work
13 for you?

14 MS. BROOKS: Wonderful.

15 MS. LANZETTA: Can we ask for
16 clarification again from the highway
17 superintendent that his decision is
18 in accordance with Section 277(2) (a).

19 MS. BROOKS: 280-a.

20 MS. LANZETTA: I have 277-(2) (a)
21 in Town Law that directs that the
22 Planning Board require that the
23 streets and highways be of sufficient
24 width and suitable graded and shall
25 be suitably located to accommodate

1 A S H L Y E N G U A R I N O

2 the prospective traffic and to
3 provide access for firefighting
4 equipment to buildings. So just to
5 make sure that he thinks that we're
6 in compliance with the Town Law by
7 giving this waiver to utilize this
8 access.

9 I still don't like the thought
10 of it coming out when it can come out
11 onto a finished road. You know,
12 that's -- it seems to me that that's
13 the least you could afford a
14 neighbor as opposed to coming out
15 onto the unfinished portion.

16 MR. GUARINO: Actually the
17 person purchasing the lot is Todd
18 Diorio. He actually prefers this
19 design as the buyer. It certainly is
20 a less invasive design for Kathy and
21 I as well. Again, it sadly is only a
22 question because the Town didn't get
23 the road finished.

24 MS. LANZETTA: But when you
25 purchased the original property there

1 A S H L Y E N G U A R I N O

2 was a lot of concern about this not
3 being done. The agreement you had
4 more or less -- you know, you
5 understood that this parcel was in a
6 fragile place as far as further
7 development.

8 MR. GUARINO: That's not a
9 correct interpretation.

10 MS. LANZETTA: That's my
11 interpretation of it.

12 MR. GUARINO: No. The
13 interpretation is, and you'll notice,
14 being good neighbors when we sold the
15 property, the individuals that were
16 buying it wanted to be sure that they
17 controlled future road frontage
18 because they have more than 100 acres
19 back there to develop. So what we
20 said to them is sure, we'll just take
21 a piece to protect our backyard
22 privacy and you all will have
23 basically total control of what you
24 do with Ruby Road going all the way
25 back west, thousands of feet. And so

1 A S H L Y E N G U A R I N O

2 what we did was put easement
3 privileges in place that would allow
4 us to invade their property, if we
5 chose to, if we divided this property
6 before they did. In this particular
7 case, Cindy, we're not taking
8 advantage of that easement. We're
9 not invading their property which we
10 have a right to do. We're actually
11 invading our own property to make it
12 the shortest possible route into the
13 backyard. So this was contemplated
14 from day one. Not relevant to what
15 you're saying but relevant to the
16 fact that they didn't want to have to
17 worry about somebody in the future,
18 perhaps if we sold, causing them
19 problems when they wanted to
20 eventually develop 100 acres back
21 there and extend Ruby Road. So
22 that's why the easement language is
23 in the deed.

24 CHAIRMAN BRAND: It's in the
25 deed? It's in your deed, Mr.

1 A S H L Y E N G U A R I N O

2 Guarino?

3 MS. BROOKS: Yes. That was
4 originally what Mr. Battistoni
5 requested to review, which he did,
6 and he opined in his letter as well.

7 I do just want to say that
8 because I don't want to be
9 disingenuous, I'm not going to be
10 able to come back here next month
11 with the option of bringing that
12 roadway out because that section of
13 what you're suggesting is currently
14 over 20 percent grade. To regrade
15 that section of the area of the
16 property in order to be able to get a
17 driveway that would be at grade --
18 I'm happy to put the scale to the
19 contour and show you that it is, you
20 know, very steep right there. It's
21 over a 20 percent grade. So if you
22 look at that grade compared to what
23 the grade of the existing roadway is,
24 it's just not feasible. I need to
25 say that now because I'm looking at

1 A S H L Y E N G U A R I N O

2 my grades and I'm saying there's no
3 way I can come back with that. So I
4 just do want to make that clear.

5 CHAIRMAN BRAND: So we will
6 schedule a public hearing for the
7 4th. We will try and get some
8 clarification from the highway
9 superintendent. Jeff will do a
10 little bit more digging to what
11 constitutes the roadway, the access
12 to it.

13 MR. BATTISTONI: I can. I
14 think the starting point is with the
15 highway superintendent to see if he
16 would consider finishing that section
17 with an alternative surface.

18 CHAIRMAN BRAND: Okay. Any
19 other questions or comments for this?

20 MR. HINES: The only thing I
21 have for Michelle is that that was
22 Alan Guarino, the other voice that
23 she doesn't know.

24 CHAIRMAN BRAND: Alan Guarino.
25 He did say his name for the

1 A S H L Y E N G U A R I N O

2 stenographer.

3 MR. HINES: I missed that.

4 CHAIRMAN BRAND: Excellent.

5 All right. Thank you.

6 MR. GUARINO: Mr. Chairman, can

7 I ask just one question --

8 CHAIRMAN BRAND: Of course.

9 MR. GUARINO: -- just hypothetically.

10 If the road was paved, you're
11 comfortable with the rest of the plan
12 the way it's laid out, is that
13 correct, in terms of what we've been
14 asked to provide you?

15 Thank you. Thank you very much.

16 CHAIRMAN BRAND: Thank you.

17

18 (Time noted: 8:22 p.m.)

19

20

21

22

23

24

25

1 A S H L Y E N G U A R I N O

2

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

4

5

6 I, MICHELLE CONERO, a Notary Public
7 for and within the State of New York, do
8 hereby certify:

9 That hereinbefore set forth is a true
10 record of the proceedings.

11 I further certify that I am not
12 related to any of the parties to this
13 proceeding by blood or by marriage and that
14 I am in no way interested in the outcome of
15 this matter.

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 16th day of March 2022.

18

19

20

21

Michele Conero

22

MICHELLE CONERO

23

24

25

1

2 STATE OF NEW YORK : COUNTY OF ULSTER
3 TOWN OF MARLBOROUGH PLANNING BOARD
4 - X
In the Matter of

5

6 VERIZON - MARLBORO HIGH SCHOOL

7 Project No. 21-5031
50 Cross Road, Marlboro
8 Section 108.4; Block 2; Lot 71.100

9 - X

10

SKETCH - SITE PLAN

11

12 Date: March 7, 2022
13 Time: 8:23 p.m.
14 Place: Town of Marlborough
15 Town Hall
16 21 Milton Turnpike
17 Milton, NY 12547

18

19 BOARD MEMBERS: CHRIS BRAND, Chairman
20 CINDY LANZETTA
21 JOSEPH LOFARO
22 ROBERT TRONCILLITO
23 STEPHEN JENNISON

24 ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.
25 PATRICK HINES
VIRGINIA FLYNN
MICHAEL MUSSO

26

27 APPLICANT'S REPRESENTATIVE: DAVID BRENNAN,
28 FRANK MURRAY, STEVE LUPINTHAL &
29 ROBERT AMATUSO

30

31 - X
32 MICHELLE L. CONERO
33 3 Francis Street
34 Newburgh, New York 12550
35 (845) 541-4163

36

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 CHAIRMAN BRAND: Next on the
3 agenda is Verizon - Marlboro, 50
4 Cross Road, Marlboro for a sketch of
5 their site plan.

6 MR. GAROFALO: Let the record
7 show that James Garofalo is leaving
8 the room for this portion of the
9 meeting. Thank you.

10 CHAIRMAN BRAND: Thank you.

11 Mr. Musso, do you want to come
12 up as well?

13 Pat, I'll let you start off and
14 then defer to Mr. Musso before we
15 hear from the applicant.

16 MR. HINES: So my first comment
17 says exactly that, the Planning Board
18 has a consultant that has been
19 working on the required visual
20 analysis. I know there were many
21 e-mails going back and forth. I know
22 some of the Board Members were out
23 for the balloon test.

24 There was a County Planning
25 referral that was done and there was

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 a required modification that the
3 application be coordinated with other
4 emergency services and such. I think
5 that needs to be a box that needs to
6 be checked. It's a mandatory
7 requirement.

8 The Town ordinance requires a
9 public hearing. Uniquely the
10 ordinance goes back to that 300 foot
11 notice. It wasn't revised when we
12 did the other 500 foot provisions.
13 Your wireless ordinance has a 300
14 foot radius for notification.

15 Then there are provisions for
16 security for the maintenance and
17 removal in your wireless ordinance.
18 It states a minimum amount of
19 \$75,000, and we're deferring to Mike
20 Musso for the actual cost of that.

21 So there's procedural issues
22 that I have, and certainly Mike is
23 much more capable of speaking to this
24 than me.

25 CHAIRMAN BRAND: Mr. Musso, the

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 floor is yours.

3 MR. MUSSO: Okay. Members of
4 the Board, Mr. Chairman, thanks for
5 having me back tonight.

6 So Pat gave a little rundown
7 since the last time we were here.

8 Let's see. Just to recap what
9 occurred. January 31st was the
10 balloon test. Maybe some of you
11 popped out. HDR was there in the
12 field. We had a great day, luckily.
13 For January 31st you never know what
14 kind of weather it will be that
15 you're going to encounter. It was
16 actually ideal conditions. Chilly
17 but the balloon was up for the four-
18 hour duration. We confirmed that.
19 We rode around with Tectonic, who is
20 the applicant's visual consultant.
21 We had laid out some views
22 beforehand. We were there
23 documenting where the views were
24 taken from.

25 There are some infos coming

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 together, which I guess was filed a
3 week ago, February 28th, a voluminous
4 supplemental info submittal
5 responding to our comments.

6 We did forward over a number of
7 viewpoints that we thought were
8 adequate. In all, they submitted an
9 early visual resource report with the
10 initial submittal in December. There
11 is really a totally enhanced report
12 that came in on the 28th. Some of
13 those viewpoints have been labeled.
14 All in all, there were about 23 photo
15 locations and about 12 of those were
16 turned in to photo simulations. So
17 that's kind of a before without the
18 tower, the 90 foot proposed, and then
19 with the tower. It's kind of
20 interesting to scroll through them.
21 Side by side you can see a before and
22 after look at those.

23 So we had suggested a number of
24 viewpoints. All of them were
25 provided. We looked at a great

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 Altimast pole and equipment as is
3 currently proposed. We also asked for
4 different colors on some of the
5 simulations, brown for a tan pole.

6 I do not think that this
7 application (inaudible) makes sense
8 on this location based on its
9 topography and its view. It sits up
10 on a bluff. There's no treeline
11 around it.

12 Some of the simulations also
13 look at co-location. So right now
14 this is Verizon that's applying.
15 Their antennas are proposed at the
16 top of the 90-foot structure. It's
17 possible there could be people that
18 come in front of this Board or in
19 front of the Building Department in
20 the future, if built, that would want
21 to co-locate at lower heights.

22 I think you have a very good
23 sampling of photo simulations that
24 are going to give you an idea from
25 different perspectives.

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 One thing that was not
3 submitted, and I just wanted to bring
4 up tonight, maybe also for Jeff and
5 Pat to consider, I just want to start
6 a discussion on this. As you know,
7 the FCC, the Federal FCC really
8 exempts some of the review that
9 municipalities can impart on these
10 applications. Health is one of them.
11 There's been a health radiofrequency
12 emissions report that was provided
13 initially. In my experience with
14 tower sites, the site would be
15 compliant based on the equipment, the
16 power levels, the distance from
17 receptors.

18 Another one of those things,
19 it's called an eligible facilities
20 request, and that's for existing
21 wireless facilities, like towers or
22 rooftops, whatever it might be. The
23 carriers are afforded some rights to
24 make changes to those existing
25 facilities. So you're saying why is

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 he bringing this up. There's not an
3 existing facility that we're talking
4 about tonight. One of the things we
5 asked for, though, was thinking if
6 this does move forward, it does get
7 approval, 90 feet, the eligible
8 facilities request allows an
9 extension of the new tower. So if
10 somebody wanted to come in and say
11 well, I can't co-locate at 80 feet,
12 it's not going to work for me. Maybe
13 it's T-Mobile or AT&T, right, one of
14 the other carriers. Maybe it's Dish
15 Wireless who is a new carrier now in
16 our area. I thought about requesting, and
17 I ended up requesting doing photo
18 simulations with additional height
19 going from 90 feet to 110 foot. The
20 foot is a substantial change where
21 the Feds say that's not a substantial
22 change if you're getting 20 foot to a
23 tower. The applicant decided not to
24 submit those, and I think it's an
25 important conversation in terms of

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 SEQRA. On the other hand, it could
3 also confuse the file for you and the
4 public. Wait a minute, I thought
5 this was 90 feet. Why are there
6 simulations for 110 feet. That's
7 actually hypothetical, it's not
8 what's being proposed. I can't say
9 for sure if a height extension would
10 be needed or not. I don't know.
11 It's one thing that I think could be
12 discussed in our process here as
13 things move forward a little bit.

14 A couple things that the
15 applicant I think still needs to work
16 on and again future discussions.
17 There were eight waivers that were
18 proposed in the initial application
19 filing. There's also a request for
20 the SHPO correspondences, and that
21 hasn't been provided yet. That's
22 something that we asked for that
23 didn't come in on the 28th.

24 CHAIRMAN BRAND: What was the
25 first thing you said? I'm sorry.

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 The eight --

3 MR. MUSSO: Waivers. So
4 waivers to the code that are
5 requested of the Planning Board.
6 Those are set out in the initial
7 application.

8 SHPO documentation is something
9 that we asked for. We definitely
10 want to see the outreach that was
11 made to SHPO and what came back. So
12 I think that's something perhaps the
13 applicant is still working on.

14 We are still reviewing a key
15 part of this which is the
16 radiofrequency justification for the
17 site. We did ask for information.
18 It did come back in on the 28th.
19 Notably we asked for possibly using
20 the tower at the Ann Kaley Road site
21 behind the vineyard. That co-
22 location is not viable if we're
23 talking about Lattintown Road,
24 Plattekill Road, Verizon's coverage
25 objectives. I think we have some

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 good due diligence now, some good
3 technical data that backs that up.

4 We're working on our tech memo
5 which I have a number of conditions
6 and recommendations as always.

7 As Pat Hines noted, we did see
8 the Ulster County Planning Board
9 comments that had come in on this.
10 One thing that's notable is that they
11 said well, if there are additional
12 application materials, especially
13 photo simulations and the report, we
14 certainly want to see that and refer
15 to that. So that's something I think
16 a little more ministerial to keep the
17 County Planning Board in the loop.

18 I guess a couple other things
19 before any questions that I might be
20 able to answer tonight. I know there
21 was maybe a declaration on SEQRA by
22 this Board as lead agency. I'm not
23 sure if that's happened or not yet.
24 That's something that would need to
25 happen if it hasn't, to circulate

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 notice of intent.

3 And then with regard to a
4 public hearing, I know you haven't
5 seen a memo from me yet. It's
6 something that we're working on. We
7 should be able to get that in in
8 March. There are a few
9 clarifications, as always, that I'll
10 go back and forth with the applicant
11 on in the meantime. But otherwise
12 that's the status of it.

13 I think the new submittal
14 really responded to all of our
15 comments. Now it's down to me
16 clarifying if there's anything more
17 that I need to look at in order to
18 finalize the tech memo.

19 CHAIRMAN BRAND: Great. Thank
20 you.

21 Comments from the applicant?

22 MR. BRENNAN: Sure. Good
23 evening, ladies and gentlemen. My
24 name is Dave Brennan and with the law
25 firm of Young/Sommer out of Albany,

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 pinch hitting tonight for Scott Olson
3 who is normally down before this
4 Board. With me tonight is Frank
5 Murray who is site acquisitions,
6 Steve Lupinthal who is our photo
7 simulation technician. Sitting
8 behind me is Bob Amatuso, a
9 radiofrequency engineer from Verizon
10 who came down to answer any
11 particular questions.

12 So I think as to the status of
13 the application, Mr. Musso's overview
14 is consistent with where we are and
15 what we've done. The initial
16 viewshed analysis that was submitted
17 with that location package, it was
18 done on notice again and then the
19 revised reports submitted, and the
20 additional information that was
21 requested was submitted.

22 So we have a couple of items to
23 discuss with the Board. I don't know
24 that -- I would say I don't agree
25 with a couple things.

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

16 The photo sims, if you look closely
17 at them, show an additional three
18 carriers from a multiplicity of
19 viewpoints where there is adequate
20 room underneath Verizon Wireless to
21 place additional carriers. So I do
22 actually agree with Mr. Musso that
23 confusing or confounding this
24 application, it's really not for a 90
25 foot monopole, it's 110. You can see

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 from -- a variety or almost all of

3 the viewpoints you can see one, two,

4 three more carriers below Verizon's

5 location, providing them adequate

6 space. Situations where in the

7 future a carrier may come back and

8 say we can't use that for height,

9 sure. I understand that in the Town

10 that's happened. That is a bit of

11 tension or friction we get between

12 making a tower that's 90 feet tall

13 upfront where we used to build at 150

14 or 199 feet back in the day and there

15 would never be a question if there's

16 enough height. The contention that

17 existed is if you want 90 feet, that

18 low or close to the ground, there's

19 always the possibility of someone

20 coming back to say 90 feet doesn't

21 work for us here. In this case, as

22 he suggested, we're not buried in the

23 weeds or in the trees where the next

24 carrier is down in the trees. I've

25 seen situations, and that was the one

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 I encountered, where you literally
3 could see one set of antennas above
4 the trees. It was literally just
5 above the trees. The next person
6 down was literally looking at
7 branches. They didn't want to deploy
8 that because that was something that
9 would not work for them. That's not
10 the case here. We're not surrounded
11 by that high density of trees. I
12 don't see the need to confuse this by
13 going with additional height. Will
14 that play out if someone needs more
15 height in the future? It may. I
16 can't speak for that. From a SEQRA
17 point, I don't believe there's an
18 argument that (inaudible). The
19 application before us is for 90 feet
20 and there's demonstrated room for
21 three additional carriers below.
22 From the beginning of time we know
23 (inaudible) with other carriers as to
24 the location of their heights. Every
25 single tower that's ever been

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 approved always ran the risk of if
3 there wasn't appropriate space or
4 height or the need for the next
5 carrier. There's always that
6 possibility here as well. I think
7 that the Board has sufficient
8 information and significant
9 information to get it to a point of
10 involving the public and considering
11 the public hearing at the next
12 meeting to see what the community
13 says to this. I certainly think the
14 technical comments are sufficiently
15 advanced in detail to allow that to
16 take place, but certainly that's my
17 job to ask you that. I certainly did
18 not come down to argue with you
19 tonight either as I believe we're at
20 an appropriate point to discuss.

21 CHAIRMAN BRAND: Thank you.

22 MR. BRENNAN: You're welcome.

23 CHAIRMAN BRAND: Mr. Musso,
24 would you agree with his dissertation
25 of the SEQRA notice to act as lead

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 agency, that there are no other
3 additional agencies that would need
4 to weigh in on this?

5 MR. MUSSO: Based on my
6 experience here and in other
7 municipalities, I think that's right.

8 CHAIRMAN BRAND: Okay. Any
9 additional questions or comments from
10 the Board?

11 MS. LANZETTA: Yeah. I am in
12 agreement that it might be wise to
13 set the public hearing and get public
14 input to see if the height issue is
15 going to be something that the
16 community is going to focus on.

17 For right now I don't mind, you
18 know, using the photo simulations as
19 they are to use at the public hearing.

20 I will just -- I have to say
21 one thing. Because I had complained
22 about the photo simulations for the
23 historic site, for the Morse Estate,
24 because the picture shown is from the
25 parking lot in the front of the

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 historic mansion as opposed to the
3 western side that actually overlooks
4 the Hudson River and looks down
5 towards Marlborough. I complained
6 about the first photo simulation.
7 The second photo simulation,
8 apparently they did the same thing.
9 In fact, I think it's the same
10 picture. I happened to call the
11 director of the Morse Estate and
12 asked them to be watching for the
13 balloon test, and got confirmation
14 from him that there was no
15 significant impact, but you would
16 never know that from your report. At
17 least not by the picture that you use
18 in it. So I just wanted to mention
19 that.

20 CHAIRMAN BRAND: Thank you.

21 MR. MUSSO: If I could add to
22 that as well. On the 31st I spent
23 the morning across the river. Locust
24 Grove, the Morse Estate was shutdown
25 for the winter. I said how am I

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 going to get back. I couldn't walk
3 back to the Hudson side, which is the
4 whole point, right, of looking to
5 see. I did earlier go to Bowdoin
6 Park which is almost directly across.
7 I did spot the balloon with
8 binoculars, which is not how you
9 assess visual, it's with the bare eye
10 and a certain lens. The 90 feet,
11 nothing is framed against the bare
12 sky from across the river. I think
13 that's an important point and might
14 go towards color mitigation in the
15 future. Even though I could get into
16 the Morse Estate, the cemetery just
17 to the north I was able to ride
18 around and could not spot the balloon
19 in that area. So it's not the same
20 property, it's a little bit further
21 away, but I just wanted to note that
22 we did that.

23 CHAIRMAN BRAND: Any other
24 additional comments or questions from
25 the Board?

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 (No response.)

3 CHAIRMAN BRAND: No. So Mike,
4 in your opinion should we then act or
5 make a motion to act as lead agency
6 for this project?

7 MR. BATTISTONI: If I could
8 interrupt for a second. I would
9 indicate that the Board already did
10 that.

11 MS. LANZETTA: We did.

12 CHAIRMAN BRAND: I thought so.

13 MR. BATTISTONI: It was
14 classified as an Unlisted action.
15 You declared your intent to be lead
16 agency.

17 CHAIRMAN BRAND: Okay.

18 MR. BATTISTONI: We did note
19 that maybe circulation would be
20 needed to the school district and New
21 York State EOS, but I'll check both
22 of those.

23 CHAIRMAN BRAND: My fault.

24 Okay. So Jen, are we April 4th
25 for this public hearing? Is that

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 what we said?

3 MS. FLYNN: Yes.

4 CHAIRMAN BRAND: Is the Board
5 in agreement with the April 4th
6 public hearing?

7 MR. TRONCILLITO: Yes.

8 MS. LANZETTA: Yes.

9 MR. LOFARO: Yes.

10 MR. JENNISON: Yes.

11 CHAIRMAN BRAND: Any objections
12 to that?

13 (No response.)

14 CHAIRMAN BRAND: All right. So
15 we will set the public hearing then
16 for April 4th.

17 Does that work for the
18 applicant as well?

19 MR. BRENNAN: Absolutely.

20 Thank you.

21 MR. TRONCILLITO: I've just got
22 one question. Are you open if any of
23 the emergency services wanted to use
24 that tower?

25 MR. BRENNAN: I believe so.

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 Again I'm pinch hitting. I've seen
3 that happen routinely.

4 MR. TRONCILLITO: The reason
5 I'm saying that is we're on the other
6 tower on Tower Lane and the reception
7 is so-so. If we could get on the
8 other tower, but I'd have to run it
9 by our radio people first. I just
10 wanted to make sure if we can or we
11 can't. That's all.

12 MR. BRENNAN: Unless something
13 has changed, our position has always
14 been we're willing to make that
15 accommodation at the local emergency
16 services.

17 MR. TRONCILLITO: They were
18 very cooperative on your --

19 MR. BRENNAN: I've seen it time
20 and time again, you know. The
21 question of what's going on, whether
22 it's a whip or a dish or something
23 like that sometimes comes up.

24 MR. TRONCILLITO: Just whips.

25 MR. BRENNAN: I don't expect

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L
2 there to be any problem. I see
3 County Planning is injecting their
4 opinion that should happen
5 regardless. It's always an
6 interesting aside, County demanding
7 something. But we do it all the time
8 and I would expect no different here.
9 I'll certainly put that in writing to
10 the Board's consultants.

11 MR. TRONCILLITO: Very good.

12 CHAIRMAN BRAND: Mike, just
13 before everybody leaves, just so I'm
14 clear, if the -- I forgot what you
15 called it. Hold on one second. The
16 radiofrequency justification tower
17 extension, that does not require them
18 to come back before the Board? That
19 would just be something that they're
20 allowed to do once the tower is up?

21 MR. MUSSO: I don't know if
22 you've done a modification or an EFR,
23 eligible facilities request, here.
24 I'm not sure if the code explicitly
25 notes that, Chapter 152. I think you

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 can certainly have somebody come here
3 and maybe (inaudible). They don't
4 want to be here. They need to go to
5 the Building Department only.

6 Everything needs the building permit.
7 I think, given it's a school grounds,
8 you know, that's another thing. I'm
9 assuming you're partners with the
10 school. Maybe have a discussion with
11 them, talk about their lease. Maybe
12 the lease doesn't allow for the
13 extension. That could be. But it's
14 an interesting point, and that's part
15 of my suggestion. We know they are
16 here now. If not provided, HDR can
17 provide a decent analysis in our tech
18 memo based on the county GIS system,
19 which is very good, and maybe show
20 some differentials that would give
21 the Board at least some (inaudible).
22 So I don't want to say that three or
23 four years down the road it's just
24 (inaudible) building permit. I think
25 it's good that you're at least aware

1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2 of that for now at this stage.

3 CHAIRMAN BRAND: Okay. Thank
4 you.

5 I think that's it. Yes?

6 Nothing else?

7 (No response.)

8 CHAIRMAN BRAND: All right.

9 Thank you. We'll see you on April
10 4th.

11 MR. BRENNAN: Thank you.

12

13 (Time noted: 8:45 p.m.)

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1 V E R I Z O N - M A R L B O R O H I G H S C H O O L

2

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

4

5

6 I, MICHELLE CONERO, a Notary Public
7 for and within the State of New York, do
8 hereby certify:

9 That hereinbefore set forth is a true
10 record of the proceedings.

11 I further certify that I am not
12 related to any of the parties to this
13 proceeding by blood or by marriage and that
14 I am in no way interested in the outcome of
15 this matter.

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 16th day of March 2022.

18

19

20

21

Michele Conero

22

MICHELLE CONERO

23

24

25

1

2 STATE OF NEW YORK : COUNTY OF ULSTER
3 TOWN OF MARLBOROUGH PLANNING BOARD
4 - X
In the Matter of

5

6 POLLOCK SITE PLAN

7 Project No. 21-5019
8 39 Main Street, Milton
9 Section 100.1; Block 2; Lots 44 & 45
- X

10

SKETCH - SITE PLAN

11

12 Date: March 7, 2022
13 Time: 8:45 p.m.
14 Place: Town of Marlborough
15 Town Hall
16 21 Milton Turnpike
17 Milton, NY 12547
18

19

BOARD MEMBERS: CHRIS BRAND, Chairman
CINDY LANZETTA
JOSEPH LOFARO
JAMES GAROFALO
ROBERT TRONCILLITO
STEPHEN JENNISON

20

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

21

APPLICANT'S REPRESENTATIVE: BARRY MEDENBACH

22

- X
MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163
23
24
25

1 POLLOCK SITE PLAN

2 CHAIRMAN BRAND: Next on the
3 agenda we have the Pollock Site Plan
4 at 39 Main Street in Milton for a
5 sketch of their site plan.

6 How are you guys tonight?

7 MR. POLLOCK: Very good.

8 MR. MEDENBACH: Good.

9 CHAIRMAN BRAND: Pat, I'll
10 start with you, as always.

11 MR. HINES: So this application
12 is back before the Board. We had the
13 public hearing I believe last month
14 when it was here. They made some
15 changes to the plans per that.

16 The major changes to the plans
17 were the overall parking area on
18 Brewster Street. Per Mr. Garofalo's
19 request they made a couple of parking
20 spaces larger to comply with the
21 current Town Code. I do note that
22 the Town Code is proposed to be
23 changed on March 14th. There's a
24 public hearing regarding that, among
25 other things.

1 POLLOCK SITE PLAN

2 We're suggesting, and this is
3 for Jeff, that the parking be legally
4 bound to the use at 39 Main Street.
5 We've done that before at the Falcon
6 as well as the restaurant, I think
7 formally known as the Brix, Brick
8 House or something like that, in the
9 past. So those kind of documents
10 need to be generated and legally bind
11 that the parking needs to remain
12 available in perpetuity for this
13 site.

14 The Planning Board had asked
15 for an evaluation of sidewalks
16 leading from the off-street parking
17 to the residential area out to
18 Brewster Street. I don't know that
19 you were including Brewster Street in
20 that ask. It was kind of
21 disconnected. That hasn't been
22 accomplished. Maybe the applicant
23 can address that.

24 We talked about the truck
25 turning radius plan. They gave us

1 P O L L O C K S I T E P L A N

2 two different truck turning plans,
3 one was a straight body truck pulling
4 into the loading dock area along Main
5 Street and the other was a WB-50
6 turning into Main Street from Milton
7 Turnpike. That doesn't happen often
8 but we did hear at the public hearing
9 it does happen. They've shown that
10 vehicle being able to make that turn.
11 It does track into the opposite lane
12 in some spots but it can make it
13 without the cars having to move on
14 Main Street that we heard recently.
15 That's a change to the geometry of
16 that curve at the intersection where
17 the project is.

18 We received a revised
19 stormwater management plan that
20 provides, per our comments,
21 stormwater on the site. All the
22 roofs and the parking lot, the 40
23 spots in the rear, all are tributary
24 to an underground stormwater
25 management facility that will store

1 P O L L O C K S I T E P L A N

2 runoff on that site and discharge it
3 into the existing Town collection
4 system at a rate lower than that what
5 occurs today. It kind of fills up
6 the bathtub and meters it out.

7 That's kind of the idea of that.

8 It's a very expensive bathtub for Mr.
9 Pollock for that under parking
10 storage, but there's limited spots on
11 the site to address that.

12 And then we talked at the last
13 meeting about Central Hudson
14 relocating the utility poles, at
15 which point you would also need to
16 bring the Town Board in to approve
17 the changes to the streetscape, I'll
18 say for lack of a better term, the
19 parking, the roadway and right-of-way
20 within Main Street.

21 So that's the extent of our
22 review.

23 I did note, and I talked to Mr.
24 Medenbach, the existing parking is
25 gravel and it's proposed to remain

1 P O L L O C K S I T E P L A N

2 gravel. Although it's nicely
3 delineated on the plan, it's really
4 going to be a gravel parking lot down
5 at Brewster Street. It kind of looks
6 paved and delineated on this plan but
7 it's going to be a gravel kind of
8 overflow lot. Again, the spaces,
9 while they're numbered nice and neat
10 there. There may actually be some
11 more spaces available for the
12 overflow. It looks painted. It's
13 not going to be. It's proposed as
14 gravel at this point, for the Board.

15 CHAIRMAN BRAND: Thank you.

16 Jeff, did you have anything on
17 this one?

18 MR. BATTISTONI: I did not.

19 CHAIRMAN BRAND: Did the
20 applicant have anything else to
21 provide this evening for us?

22 MR. MEDENBACH: We have nothing
23 new.

24 CHAIRMAN BRAND: Questions or
25 comments from the Board?

1 P O L L O C K S I T E P L A N

2 MR. GAROFALO: I have some
3 comments.

4 CHAIRMAN BRAND: Mr. Garofalo.

5 MR. GAROFALO: One, I'd like to
6 note that the ZBA did provide a
7 variance on the distance between the
8 buildings. They used plus/minus 11
9 feet. The applicant moved the
10 building so it's only 10 feet. I
11 think we can interpret that ZBA
12 acceptance to include the 10 foot.

13 The 12 -- the 12 foot -- no.
14 Number 12 Brewster Street parking lot
15 will need landscaping according to
16 our code.

17 They provided the dimensions on
18 the signing but we still need I think
19 the height of the signs, the distance
20 that they're setback. The left-turn
21 sign needs to meet the Manual Uniform
22 Traffic Control Devices at that
23 parking lot. The directional sign on
24 Main Street, the height probably
25 should meet the MUTCD height

1 P O L L O C K S I T E P L A N

2 requirements which should take
3 precedent over table 4.

4 I don't know at this time if
5 the developer wants to propose the
6 signs for the individual buildings or
7 if that's something that can be
8 permitted later. I'm not sure how
9 that works.

10 I would like to suggest that
11 the accessible parking on the street
12 be moved to the corner of Milton
13 Turnpike. This would reduce your
14 sidewalk to having only one ramp
15 down. If you want to take a look at
16 this drawing, it actually has the
17 sidewalk next to the cars as being a
18 normal curb. You only have one down
19 instead of having that large section
20 where you bring the curb down. That
21 might be easier for you to do. I
22 think that's more in line with the
23 guidelines.

24 With respect to the loading
25 zone, we need plans that show it will

1 P O L L O C K S I T E P L A N

2 fit a wheelbase 30 truck, which is a
3 smaller truck.

4 What I'm going to suggest is
5 that the parking spaces to the west,
6 that all those parking spaces right
7 now have a two-hour time limit. That
8 the one parking space to the west of
9 that have a restriction in the late
10 evening and early morning that there
11 be allowed no parking at all, and
12 that would allow a larger truck,
13 either very late or very early, to
14 come in and park. So if you wanted a
15 WB-40 to make your delivery, you
16 could have it done early in the
17 morning. Leaving it to the Town
18 Board as to what timeframe they would
19 like to limit that no parking to.
20 That might be based on what the
21 current operation of some of the
22 buildings in the area are. I think
23 that would be better for your stores
24 because it would give them an
25 opportunity to have some larger

1 POLLOCK SITE PLAN

2 trucks come in and make deliveries.

3 Clearly we don't want to get rid of
4 that spot totally, and you can't go
5 to the east because you have a
6 retaining wall, that handrail and the
7 sidewalk is coming down. You just
8 can't extend it to the east, although
9 the property line does go further to
10 the east.

11 CHAIRMAN BRAND: Pat, can I
12 just jump in and ask a clarification
13 question as far as these questions
14 that Mr. Garofalo is referring to go?
15 Who sets those -- that's the town
16 highway superintendent?

17 MR. HINES: The Town Board
18 would be in charge of any vehicle and
19 traffic regulation.

20 CHAIRMAN BRAND: So that's
21 outside the scope of the applicant?

22 MR. GAROFALO: Yes. We could
23 make it -- I shouldn't say us. That
24 would get into the next part. It
25 could be made a condition that the

1 POLLOCK SITE PLAN

removal of the loading space in the rear is conditioned on having the loading space on the street.

5 CHAIRMAN BRAND: Okay.

6 MR. GAROFALO: That could be a
7 condition of approval.

18 Certainly making it conditional to
19 the on-street parking would be good.
20 I would recommend that there are good
21 reasons to eliminate that loading
22 zone and put the on-street parking,
23 including -- there's actually a
24 weight restriction on Milton Turnpike
25 between Main Street and 9W of 5 tons.

1 P O L L O C K S I T E P L A N

2 So that would be one. The size of
3 the stores. Most of the store
4 accesses are on Main Street anyway.
5 The grade separation between Main
6 Street and the rear parking lot. The
7 provision of an on-street loading
8 zone would be good for the other
9 businesses and the mixed use of the
10 parking lot in the rear. These are
11 all good reasons I think to waive it
12 or grant a variance on it. I think
13 that if we are going to waive it, we
14 should have a written thing
15 delineating all of these things and
16 we can waive it or it goes to the
17 ZBA, or we could give a
18 recommendation to the ZBA that it be
19 approved based on all of these
20 factors. I'm just not sure
21 jurisdictionally whether we can waive
22 it or this has to be an area variance
23 from the ZBA.

24 MR. HINES: I believe the
25 applicants met the intent of the

1 P O L L O C K S I T E P L A N

2 Zoning Code by providing the loading
3 dock space as shown. It's functional.

4 CHAIRMAN BRAND: The street?

5 MR. HINES: The street location.

6 I think it was the Board's purview
7 that it meets the intent of the
8 Zoning Ordinance.

9 MR. JENNISON: I'm fine the way
10 it is.

11 MR. TRONCILLITO: Definitely.

12 MR. GAROFALO: I definitely
13 think it's a better location and a
14 better situation myself, especially
15 with this idea of limiting that one
16 parking space time. It makes it
17 larger -- even though it's less than
18 the required 60 feet for a loading
19 space, which I don't think that they
20 need. Actually, they provided 44
21 parking spaces. They're actually
22 bigger --

23 CHAIRMAN BRAND: Okay.

24 MR. GAROFALO: -- for the
25 evening. I certainly would consider

1 P O L L O C K S I T E P L A N

2 that if we're going to make the
3 waiver, that we should do that for
4 them.

5 MR. POLLOCK: Excuse me. Are
6 you asking me to go back to the ZBA?

7 MR. HINES: No.

8 CHAIRMAN BRAND: No.

9 MR. GAROFALO: No. I raised
10 the question who has jurisdiction.
11 You always have the option to go to
12 the ZBA.

13 MR. POLLOCK: Thank you.

14 MR. GAROFALO: I'm suggesting
15 that we present -- that we give you
16 the waiver.

17 MR. POLLOCK: Thank you. I
18 appreciate that.

19 CHAIRMAN BRAND: And Jeff, that
20 could just be part of the resolution?

21 MR. BATTISTONI: Yes. I think
22 that's a planning issue as opposed to
23 a use variance or an area variance.
24 I think it should stay here.

25 CHAIRMAN BRAND: Okay.

1 P O L L O C K S I T E P L A N

2 Anything else, Mr. Garofalo?

3 MR. GAROFALO: The only other
4 question I have is normally with a
5 draft environmental impact statement
6 you would get -- you have a public
7 hearing, you would get comments from
8 the public and they would all be
9 responded to. I'm not sure what
10 we're going to do in terms -- since
11 this isn't a draft environmental
12 impact statement, just an EAF and a
13 site plan, who and whether or not all
14 of these comments that we received
15 from the public are going to be
16 responded to and in what fashion.

17 CHAIRMAN BRAND: The written
18 comments you're referring to that
19 came in after the public hearing?

20 MR. GAROFALO: These are
21 written comments that came in after
22 and also comments that may have been
23 made at the public hearing but
24 weren't answered at the public hearing.

25 CHAIRMAN BRAND: I think they

1 POLLOCK SITE PLAN

2 were mostly parking related. We did
3 get two letters.

4 Right, Jen? Two letters came
5 in after?

6 MS. FLYNN: Yes.

7 CHAIRMAN BRAND: So the
8 applicant is not responsible to
9 respond to those. Correct, Jeff?

10 MR. BATTISTONI: I think the
11 Board put in its neg dec resolution.
12 That's what I prepared. You
13 addressed them there.

14 CHAIRMAN BRAND: Okay.
15 Anything else, Mr. Garofalo?

16 MR. GAROFALO: That's it.

17 CHAIRMAN BRAND: Anything else
18 from the Board? No?

19 MR. TRONCILLITO: I just want
20 to ask one question. What more does
21 Mr. Pollock have to do before we can
22 bless this project? That's all I'd
23 like to know. What else has to be
24 done so we don't drag this frigin
25 thing out another month? That's all

1 POLLOCK SITE PLAN

2 I'd like to know.

3 CHAIRMAN BRAND: I think that
4 was actually the next question.

5 Are we comfortable at this
6 point authorizing the attorney to
7 draft a resolution of approval?

8 MR. JENNISON: I am.

9 MR. GAROFALO: I still think we
10 need, by the code, a landscape plan
11 for the parking lot.

12 CHAIRMAN BRAND: Pat, is that a
13 requirement?

14 MR. HINES: We have not
15 required any of the other two
16 overflow parking areas to do that
17 under the site plan review. The
18 Falcon, certainly not. The Brick
19 House overflow parking.

20 CHAIRMAN BRAND: Because it's
21 an existing thing.

22 MR. HINES: It's an existing
23 gravel area that's being -- there's
24 very little construction activity.

25 CHAIRMAN BRAND: Is the Board

1 P O L L O C K S I T E P L A N

2 comfortable on waiving that
3 requirement?

4 MR. JENNISON: Yes.

5 MR. TRONCILLITO: Good God all
6 mighty, yes.

7 CHAIRMAN BRAND: Yes. Cindy?

8 MS. LANZETTA: Just let me make
9 sure. Jeff, you would be writing the
10 resolution with things like, you
11 know, making the off-site parking
12 areas, attaching those with a legal
13 documentation. Those would all be
14 conditions?

15 MR. HINES: They would want to
16 do that prior to. Basically that's a
17 condition that they have.

18 MS. LANZETTA: I just wanted to
19 be clear on that.

20 CHAIRMAN BRAND: I'll also
21 include the -- I think just for good
22 housekeeping, we include the fact
23 that we agreed -- the majority agreed
24 to waive the condition of landscaping
25 for the overflow parking as well.

1 POLLOCK SITE PLAN

2 MR. POLLOCK: Thank you.

3 MR. BATTISTONI: Yes.

4 CHAIRMAN BRAND: Anything else?

5 (No response.)

6 CHAIRMAN BRAND: And we did

7 agree --

8 MR. HINES: You're also going
9 to authorize, I think, a neg dec.

10 CHAIRMAN BRAND: A neg dec for
11 the next meeting. The resolution and
12 negative dec for our next meeting.

13 Anything else?

14 (No response.)

15 CHAIRMAN BRAND: No. All
16 right. You guys should be all set.
17 We'll see you at the next meeting.

18 MR. MEDENBACH: Is that going
19 to be on the 21st?

20 CHAIRMAN BRAND: March 21st.

21 Yes.

22 MR. MEDENBACH: Thank you.

23 MR. POLLOCK: What happens at
24 the next meeting? What else --

25 CHAIRMAN BRAND: You just have

1 P O L L O C K S I T E P L A N

2 to come and congratulate yourself for
3 hopefully getting --

4 MR. POLLOCK: (Inaudible.)

5 CHAIRMAN BRAND: You own the
6 church. It's up to you now.

7

8 (Time noted: 8:58 p.m.)

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1 P O L L O C K S I T E P L A N

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

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5

6 I, MICHELLE CONERO, a Notary Public
7 for and within the State of New York, do
8 hereby certify:

9 That hereinbefore set forth is a true
10 record of the proceedings.

11 I further certify that I am not
12 related to any of the parties to this
13 proceeding by blood or by marriage and that
14 I am in no way interested in the outcome of
15 this matter.

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 16th day of March 2022.

18

19

20

21

Michele Conero

22

23 MICHELLE CONERO

24

25

1

2 STATE OF NEW YORK : COUNTY OF ULSTER
3 TOWN OF MARLBOROUGH PLANNING BOARD
4 In the Matter of
5

6 DISCUSSION
7 TOWN BOARD PROPOSED TOWN LAW CHANGE
8

9 BOARD BUSINESS
10

11 Date: March 7, 2022
12 Time: 8:58 p.m.
13 Place: Town of Marlborough
14 Town Hall
21 Milton Turnpike
Milton, NY 12547

15 BOARD MEMBERS: CHRIS BRAND, Chairman
16 CINDY LANZETTA
17 JOSEPH LOFARO
ROBERT TRONCILLITO
STEPHEN JENNISON

18 ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.
19 PATRICK HINES
VIRGINIA FLYNN
MICHAEL MUSSO
20

21
22
23 MICHELLE L. CONERO
3 Francis Street
24 Newburgh, New York 12550
(845) 541-4163
25

1 B O A R D B U S I N E S S

2 CHAIRMAN BRAND: Just before we
3 do adjourn, we did receive the letter
4 from the Town Board which I do not
5 have in front of me.

6 MS. LANZETTA: Here it is.

7 CHAIRMAN BRAND: There it is.
8 Jeff, just very quickly, procedurally
9 we are just reviewing it and saying
10 that we agree with it. Can you help
11 me refresh my memory?

12 MR. BATTISTONI: You make any
13 comments you have to make.
14 Suggestions or comments.

15 CHAIRMAN BRAND: Do we have any
16 comments regarding these proposed
17 changes?

18 MS. LANZETTA: I think we
19 should thank the Town Board for
20 sending it to us and tell them that
21 we appreciate that they're cleaning
22 up some of these issues that need to
23 be addressed.

24 CHAIRMAN BRAND: I will make a
25 note of that.

1 BOARD BUSINESS

2 MR. GAROFALO: I have another
3 comment.

4 CHAIRMAN BRAND: Mr. Garofalo.

5 MR. GAROFALO: One is I think
6 this is good for climate change
7 because we're reducing the amount of
8 paved area. It's also good for the
9 applicants.

10 I will note that the ASHTO
11 passenger designed vehicle is 19 feet
12 long. However, perimeter parking,
13 they can overhang onto the grass. I
14 think we just have to be careful that
15 they're not overhanging onto
16 pedestrian areas that are needed for
17 accessibility, and also to be mindful
18 of parking that is nose to nose.

19 The other thing that I want to
20 mention is that with respect to the
21 distance between buildings --

22 CHAIRMAN BRAND: Are you
23 referring to the Main Street project
24 or the Town Board proposed change?

25 MR. GAROFALO: The Town Board

1 B O A R D B U S I N E S S

2 proposal. Actually this applicant
3 had looked at the concept of putting
4 a breezeway in to connect the two
5 buildings and the building inspector
6 apparently had a problem with that.
7 I think that if there is a building
8 code or fire code issue with doing
9 that, then it should be removed from
10 our code.

11 CHAIRMAN BRAND: So can you do
12 me a favor. I was going to just say
13 that I am meeting with the Town Board
14 on Thursday with Mr. Hines. If you
15 could just put that response, that
16 original e-mail that I sent out for
17 recommendations to changes, I'm going
18 to just read those off to the Town
19 Board as we go and make notes of all
20 those things. That's a reminder to
21 everyone. If you have anything else,
22 if there's anything else, just let me
23 know. All right.

24 MR. GAROFALO: You got comments
25 from me already.

1 B O A R D B U S I N E S S

2 CHAIRMAN BRAND: I certainly
3 have.

4 All right. Motion to adjourn?

5 MR. JENNISON: Wait just a
6 second, please.

7 CHAIRMAN BRAND: Sorry. Mr.
8 Jennison.

9 MR. JENNISON: Did you not, at
10 the last meeting or the meeting
11 before, ask that we not send e-mails
12 and correspondences to the attorney?

13 CHAIRMAN BRAND: I did.

14 MR. JENNISON: So I have an
15 issue that Mr. Garofalo took it upon
16 himself. I was not aware that he had
17 contacted the attorney.

18 I really wish you would go
19 through the Chairman before you send
20 something off to the attorney. That
21 was the request.

22 CHAIRMAN BRAND: I think he did
23 -- did you e-mail me that first?

24 MR. GAROFALO: I can't remember
25 all the e-mails. I think I've been

1 B O A R D B U S I N E S S

2 trying to be very consistent in
3 making sure you get a copy of
4 anything.

5 CHAIRMAN BRAND: So just as a
6 reminder, if you can e-mail me first.
7 We do have the -- I know Cindy
8 responded that we do have the Town --
9 Association of Town Boards that we
10 can refer to as well as Tommy
11 Corcoran, the code enforcement
12 officer, who can hopefully do those
13 without adding billing to the applicants.

14 MR. JENNISON: Exactly.

15 CHAIRMAN BRAND: All right.

16 Thank you.

17 MR. JENNISON: Thanks.

18 CHAIRMAN BRAND: Thanks, guys.

19

20 (Time noted: 9:05 p.m.)

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1 B O A R D B U S I N E S S

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

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5

6 I, MICHELLE CONERO, a Notary Public
7 for and within the State of New York, do
8 hereby certify:

9 That hereinbefore set forth is a true
10 record of the proceedings.

11 I further certify that I am not
12 related to any of the parties to this
13 proceeding by blood or by marriage and that
14 I am in no way interested in the outcome of
15 this matter.

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 16th day of March 2022.

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Michele Conero

22

MICHELLE CONERO

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