

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

- - - - - X  
In the Matter of

GUARINO ASHLYEN

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

- - - - - X

PUBLIC HEARING - SUBDIVISION

Date: April 4, 2022  
Time: 7:30 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

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

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

APPLICANT'S REPRESENTATIVE: PATTI BROOKS

- - - - - X

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

1       G U A R I N O   A S H L Y E N

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

6                   (Pledge of Allegiance.)

7                   CHAIRMAN BRAND:  Agenda, Town  
8       of Marlborough Planning Board,  
9       Monday, April 4, 2022.  Regular  
10      meeting at 7:30 p.m.  On the agenda  
11      we have the approval of stenographic  
12      minutes for March 7th.  Also on the  
13      agenda is the Ashlyen Guarino public  
14      hearing of the subdivision at 5  
15      Ashlyen Drive in Marlboro.  We have a  
16      public hearing for Verizon - Marlboro  
17      High School for their site plan at 50  
18      Cross Road in Marlboro.  The Pollock  
19      Site Plan is scheduled for a final of  
20      their site plan at 39 Main Street in  
21      Milton.  Bayside is here for an  
22      extension of their site plan at 18  
23      Birdsall Avenue.  Dane DeSantis is  
24      here for a sketch of their  
25      subdivision at 226 Highland Avenue in

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2            Marlboro. Dave Jolee DuBois is here  
3            for a sketch of their subdivision at  
4            228 Mahoney Road in Milton. The  
5            Planning Board will also be having a  
6            discussion this evening for the lot  
7            line application process. The next  
8            deadline is Friday, April 8, 2022.  
9            The next scheduled meeting is Monday,  
10           April 18, 2022.

11                    I'd like to have a motion to  
12                    approve the stenographic minutes for  
13                    March 7th.

14                    MR. LOFARO: I'll make that  
15                    motion to accept the minutes.

16                    CHAIRMAN BRAND: Joe. Is there  
17                    a second?

18                    MR. TRONCILLITO: I'll second it.

19                    CHAIRMAN BRAND: Any discussion?

20                    (No response.)

21                    CHAIRMAN BRAND: Any objection?

22                    (No response.)

23                    CHAIRMAN BRAND: So moved.

24                    First on the agenda is Ashlyen  
25                    Guarino, a public hearing for the

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2               subdivision.

3               "Legal notice, subdivision  
4               application. Please take notice the  
5               Town of Marlborough Planning Board  
6               will hold a public hearing pursuant  
7               to the State Environmental Quality  
8               Review Act, or SEQRA, and the Town of  
9               Marlborough Town Code Section 134-9  
10              on Monday, April 4, 2022 for the  
11              following application: Guarino  
12              Ashlyen Subdivision, at the Town Hall  
13              at 21 Milton Turnpike, Milton, New  
14              York at 7:30 p.m. or as soon  
15              thereafter as may be heard. The  
16              applicant is seeking approval for a  
17              two-lot subdivision for property  
18              located at 5 Ashlyen Drive in  
19              Marlboro, New York, Section 108.2;  
20              Block 9; Lots 41 and 71. Any  
21              interested parties either for or  
22              against the proposal will have an  
23              opportunity to be heard at this time.  
24              Chris Brand, Town of Marlborough  
25              Planning Board."

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2                   Hi.

3                   MS. BROOKS:  Hi.  How are you?

4                   CHAIRMAN BRAND:  Great.

5                   MS. BROOKS:  We sent out 19  
6                   certified letters and received  
7                   confirmation that 17 of them were  
8                   delivered.  One was not picked up at  
9                   the post office.  The other one,  
10                  they're still attempting delivery.  
11                  They were mailed on March 21st.

12                  CHAIRMAN BRAND:  Thank you.

13                  And you gave those to Jen?

14                  MS. BROOKS:  Yes, I gave those  
15                  to Jen.

16                  CHAIRMAN BRAND:  Excellent.

17                  Pat, do you want to go through  
18                  your comments first?

19                  MR. HINES:  The majority of our  
20                  technical comments have been addressed.

21                  I know the Planning Board  
22                  recently did a field review of the  
23                  site regarding the access, Members of  
24                  the Planning Board, I believe the  
25                  highway superintendent and the

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2               applicant's representative. We would  
3               be looking for the Board's input on  
4               that access and what they saw.

5               We continue to have the comment  
6               regarding the highway superintendent's  
7               comments regarding the use of the  
8               paper street. I believe he was to  
9               attend that meeting. I'm not sure if  
10              he did.

11              CHAIRMAN BRAND: Jeff, you were  
12              also in attendance at that meeting?

13              MR. BATTISTONI: I did attend  
14              the meeting, yes.

15              CHAIRMAN BRAND: Perhaps you  
16              want to start us out with your thoughts.

17              MR. BATTISTONI: I attended  
18              that meeting. I can't remember the  
19              date. I think it was a Friday  
20              morning. Yes. Cindy was there and  
21              Steve Jennison. The highway  
22              superintendent was there with one of  
23              his assistants. The supervisor was  
24              there.

25              My impression was that the

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2                Board Members that were there, they  
3                were of the opinion that we should  
4                not grant an approval to build on the  
5                road in its unimproved state.

6                There are options available  
7                under the State Law -- Town Law  
8                Section 280-a for referral. That's  
9                something we can discuss tonight.

10               CHAIRMAN BRAND: Thank you.

11               Cindy and Steve?

12               MS. LANZETTA: I think Jeff had  
13               also said that he was going to take a  
14               look at a couple other legal questions  
15               that you had concerning deeds and  
16               whatnot. I don't know if you had an  
17               opportunity to look at those.

18               MR. BATTISTONI: I didn't. I  
19               just received the deed today for that  
20               roadway. I do have to review it  
21               still. That is something I will do.  
22               I think, obviously, the public  
23               hearing can be held tonight anyway.  
24               It is something that I do want to  
25               look at.

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2                   MS. LANZETTA:  I think Jeff  
3                   summed it up pretty well.  The  
4                   consensus was that there was a real  
5                   concern about emergency vehicles  
6                   being able to access the property.

7                   Setting a precedent was another  
8                   issue that the highway superintendent  
9                   was concerned about, and the deputy.

10                  So I think, again, we want to  
11                  hear some final legal opinions coming  
12                  from Jeff.

13                  At this point we thought that  
14                  coming out onto the unimproved road  
15                  was something that we wouldn't be  
16                  able to approve.

17                  MR. BATTISTONI:  If I may.  The  
18                  highway superintendent noted the  
19                  difficulty with plowing snow in a  
20                  situation like that, and piling the  
21                  snow as well.  He made that point at  
22                  the meeting.

23                  MS. BROOKS:  I'm sorry, Jeff.  
24                  I didn't hear what you just said.

25                  MR. BATTISTONI:  The highway



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2           superintendent, at that site visit,  
3           noted the difficulty of plowing snow  
4           on a road that's not finished of that  
5           nature and stacking it up or piling  
6           it up.

7           MS. BROOKS: Is there a reason  
8           that the applicant or myself were not  
9           made aware that there was going to be  
10          a site visit so we could attend?

11          MR. BATTISTONI: I thought  
12          about notifying the property owner/  
13          applicant or Ms. Brooks and I thought  
14          really this was something intended  
15          for the Board -- the officials of the  
16          Town to go and have a discussion. I  
17          didn't extend the invitation.

18          MS. BROOKS: I mean as long as  
19          everybody was clear, because, again,  
20          without the surveyor there pointing  
21          out to you exactly where the boundary  
22          lines are and where the proposed new  
23          lot lines are, I'm just wondering how  
24          the Planning Board and the consultants  
25          had enough information to be able to

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2 make an informed decision without  
3 having somebody point out to them  
4 where the boundaries were and where  
5 the proposed boundaries would be.

6 MR. BATTISTONI: I'll just say  
7 in response to that, we did have the  
8 subdivision plat with us. We were  
9 able to compare it to the onsite  
10 physical layout of the road. I think  
11 we felt comfortable that we were in  
12 the right spot and looking at the  
13 right dimensions. I think this was  
14 more of a conceptual visit where the  
15 Town was not just looking at this  
16 subdivision but also this problem or  
17 circumstance in general and how the  
18 Town might develop a uniform policy  
19 for it.

20 CHAIRMAN BRAND: Steve, did you  
21 have anything to add?

22 MR. JENNISON: No. I think I  
23 concur with what Cindy was saying.  
24 We did meet. I did pull out my  
25 wheel. We measured it off of Ashlyen

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2           I think.  Correct, is that Ashlyen?  
3           I think our concern was that there's  
4           no cul-de-sac turnaround for  
5           emergency vehicles.  I believe to the  
6           left is not owned by the Guarinos.  
7           Correct?

8           MS. BROOKS:  Well I'm not sure  
9           where you're saying to the left.  You  
10          mean on the southerly side of Ruby  
11          Road?

12          MR. JENNISON:  When you're  
13          going up Ruby Road, so 300 feet up,  
14          at 175 foot past Ashlyen I believe is  
15          where it ends, the pavement ends.  I  
16          think it's our -- our code says that  
17          we need to have a cul-de-sac for  
18          emergency vehicles to turn around.  
19          There's really no way for that to  
20          happen.

21          MS. BROOKS:  Well if the Town  
22          didn't have the original subdivider  
23          accommodate that, there obviously is  
24          no way that the applicant would be  
25          able to do that.  Even if they

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2               improve the road all the way to the  
3               end of it, that still would not be  
4               there. That accommodation still  
5               would not be there.

6               MR. JENNISON: Correct. And  
7               Mr. Lazaroff, who I believe is the  
8               deputy highway superintendent, was  
9               there. He did produce a document  
10              about the Town Board accepting the  
11              road.

12              Jeff, was it 1988 on that  
13              document?

14              MR. BATTISTONI: I think that's  
15              what it was on that document, yes.

16              MR. JENNISON: And I think  
17              that's what -- I was basing it on  
18              research from Jeff to see where all  
19              this pans out. So that's where I'm  
20              at, Chris.

21              CHAIRMAN BRAND: Thank you.

22              This is a public hearing. If  
23              there are any interested parties here  
24              to speak for or against, I would ask  
25              you just to rise and state your name

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2               for the stenographer.

3               MR. MICHAEL PAPALEO:   Good  
4               evening, everyone.   My name is Michael  
5               Papaleo.   We're FDN Properties.   We  
6               own the property to the left which is  
7               a 100-acre parcel.   That property was  
8               at one point all one.   Years back we  
9               were in partners with the Guarinos  
10              and then we decided to take -- set  
11              our own ways.   We agreed to give the  
12              parcel behind the Guarinos to them  
13              and we took the rest of the 100 acres  
14              that remained.

15              So you guys raised a lot of  
16              questions that I had for you guys.  
17              I'm just going to follow through and  
18              just go through it again.

19              The upgrade on Ruby Road, does  
20              it have to be brought up to Town  
21              spec?   I guess you guys were speaking  
22              about that.

23              Also the point of entry on the  
24              driveway, is it at the end of Ruby  
25              Road or after?   I know I see it on

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2               the map but I want to confirm that.

3                       Again, emergency vehicles.

4               It's very tight there for plowing,  
5               highway plowing. For that driveway  
6               to plow alone it's going to encroach  
7               into our property. I was wondering  
8               if there's any kind of -- you know,  
9               are there setbacks that we need to  
10              follow? Is there a certain amount of  
11              feet that the driveway needs to be  
12              from the property line?

13                      Also, as of now it's going to  
14              be really -- I wonder how they're  
15              going to build, because it's  
16              impossible to build or do a driveway  
17              there without encroaching into our  
18              property.

19                      I was there just tonight and  
20              they cleared out -- there's a lot of  
21              activity there. If you guys went  
22              there you'll notice towards the left,  
23              all that property that's cleaned out  
24              is all our property. They took it  
25              upon themselves to clean it and do a

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2                lot of movement there without our  
3                permission. They do not have  
4                permission to be on the property.

5                I would like to see more bounds  
6                and whatever you call it. I'm sorry  
7                for the terminology. Metes and  
8                bounds to see exactly where the  
9                property line is and what they intend  
10               to do there.

11               There's a massive hill there,  
12               like a little mountain, and that's  
13               like really right on our line. I  
14               don't know how they intend to bring  
15               in, you know, trucks and bulldozers  
16               without going over our property.

17               Also, originally when we had  
18               this property, we had it together for  
19               many years, and then at the end when  
20               we decided to go our ways, the  
21               Guarinos said if anything happens, we  
22               go our own ways, they wanted to have  
23               the property in the back. We  
24               followed through on their agreement.  
25               Guarino wanted their property for a

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2               buffer and their children in the  
3               future to build houses in the back.  
4               So that their children can build, and  
5               I would think that he would keep it  
6               for a buffer, but now he's looking to  
7               subdivide the property for unknown  
8               people. I don't know who it is.

9               So that's where we're at. Just  
10              give me one second.

11              CHAIRMAN BRAND: Do you have  
12              those questions in writing there?

13              MR. MICHAEL PAPALEO: I do but  
14              it's like added. I can fix it for  
15              you guys if you'd like.

16              CHAIRMAN BRAND: The stenographer  
17              does a swell job.

18              MR. MICHAEL PAPALEO: Those are  
19              my -- my main concern is it's a  
20              little too close for comfort there.  
21              It really is. Like I said, they're  
22              already on it. I just want to see  
23              what you guys think about that.

24              Before you make a decision  
25              here, you've got to take these, you



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2               know, concerns into consideration.  
3               I'd appreciate it. Thank you.

4                       CHAIRMAN BRAND: Thank you.  
5                       Are there any other parties  
6               here?

7                       MR. BEN PAPALEO: I'm Ben  
8               Papaleo. Benidetto Papaleo. I'm  
9               also partners with my brothers.  
10              Three brothers, we're all partners in  
11              this piece of property.

12                     Also electric service to the  
13              property. How do they intend to get  
14              electric back there? Are they going  
15              to cut through our property and try  
16              to service the property with electric?

17                     Also the well should be a  
18              certain amount of distance from the  
19              property line, and also the septic.  
20              I don't know if that's current. I  
21              know you guys are looking at that.

22                     And also I would like the  
23              property -- I want to have my  
24              property fenced so I know it's not  
25              going to be encroaching, because

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2               right at this point they're  
3               encroaching.  It's really -- you  
4               know, we feel violated at this point.  
5               We had a gentlemen's agreement.  We  
6               gave them the property and now he's  
7               just doing what he wants.  I'm really  
8               upset.  My parents and us, we've been  
9               residents for thirty years in  
10              Marlborough.  We don't really bother  
11              anyone.

12              We have 100 acres that we pay  
13              taxes and it's upsetting.  We -- how  
14              do you say.  We respect everyone's  
15              property lines and this should be  
16              respected.  Obviously it's not.  The  
17              Guarinos have been neighbors with my  
18              parents for thirty years.  Thirty  
19              years or more.  Thirty-two years.  
20              There should be a little bit of  
21              respect.  I mean come on.  It's not  
22              fair and it's not right.

23              Thank you guys.  I appreciate.

24              MR. MICHAEL PAPAEO:  I wanted  
25              to say one more thing.

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2                   CHAIRMAN BRAND:   Please.

3                   MR. MICHAEL PAPALEO:   I was  
4                   under the understanding this one lot  
5                   -- originally they showed two lots.  
6                   You said two lots tonight.   I thought  
7                   it was just one lot being --

8                   MR. HINES:   It's the existing  
9                   lot and one proposed lot.

10                  MR. MICHAEL PAPALEO:   Got you.  
11                  Okay.   Thank you.

12                  CHAIRMAN BRAND:   Thank you.

13                  Is there anyone else here with  
14                  questions or comments?

15                  (No response.)

16                  CHAIRMAN BRAND:   Anything else  
17                  from the Board?

18                  MR. GAROFALO:   James Garofalo.  
19                  I would just like to make one  
20                  comment, and that is, just so you  
21                  know, you go to the Marlborough  
22                  website and a copy of the plan should  
23                  be on the website as it's shown up  
24                  there.

25                  MR. BEN PAPALEO:   Thank you.

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2                   MR. TRONCILLITO:   Steve, I've  
3                   got one question.   When you were  
4                   there was the T-turn discussed or  
5                   just the cul-de-sac?

6                   MS. LANZETTA:   I believe they  
7                   talked about a T.   They said that  
8                   they weren't even sure there was  
9                   enough property to do a T.

10                  MR. TRONCILLITO:   Thank you.

11                  MS. LANZETTA:   I don't want to  
12                  put words in anybody's mouth, but it  
13                  was my understanding that he did not  
14                  want to see anything beyond -- coming  
15                  in beyond the end of the blacktopped  
16                  portion of the road.

17                  CHAIRMAN BRAND:   Who is he?

18                  MS. LANZETTA:   Mr. Alonge.   So  
19                  it seemed like the only other option  
20                  would be -- well, would be to extend  
21                  -- if they were to do something,  
22                  would be to extend the driveway all  
23                  the way down to that portion of Ruby  
24                  Road that is blacktopped.   That was  
25                  something that we had talked about

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2               before. That seems to be the only  
3               other alternative, unless they want  
4               to work with the adjoining property  
5               owners and get -- work together on  
6               doing something to extend that  
7               unimproved portion.

8               MS. GUARINO: I just need to  
9               make --

10              CHAIRMAN BRAND: Just state  
11              your name for the stenographer as  
12              well.

13              MS. GUARINO: Kathleen Guarino.  
14              I just want to make it clear that we  
15              have not done any work in that area.  
16              If there's been dirt moved or  
17              something done, it has not been done  
18              by us. We know --

19              MR. BEN PAPALEO: Just go up  
20              there and look.

21              MS. GUARINO: We absolutely  
22              know where the boundary is and --

23              CHAIRMAN BRAND: Continue.

24              MS. GUARINO: I just want to  
25              say for the record that we have been

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2               trying to work to keep within our  
3               boundaries.  There hasn't been any  
4               work done to create a driveway or  
5               anything in trying to get this  
6               resolved.

7               I would like to know what other  
8               things were accepted in 1988 when the  
9               road was accepted, even though it  
10              wasn't fully improved as was set in  
11              their plan.  Maybe Mr. Lye -- when  
12              the original subdivision was  
13              accepted, what other changes were  
14              made to the subdivision plan that we  
15              weren't aware of back in 1988.  Has  
16              anyone had an opportunity to look at  
17              that meeting and see what else was  
18              accepted?

19              CHAIRMAN BRAND:  We didn't go  
20              back to that yet.  Correct?

21              MR. BATTISTONI:  I haven't  
22              looked back at the 1988 subdivision  
23              approval.  I think we're getting a  
24              bit off base there anyway.  This  
25              subdivision plat shows a new lot

1       GUARINO   ASHLYEN

2               being created on a road that's not  
3               paved, and that's the issue, whether  
4               the Town wants to allow something  
5               like that.

6               I will say that there is New  
7               York State Town Law Section 280-a  
8               which says that a building permit  
9               shall not be issued for the  
10              construction of a structure on a road  
11              that is not suitably improved, but it  
12              does give a couple of options. One  
13              is for a performance bond to be  
14              posted by the owner. Another is that  
15              the owner can go to the ZBA to seek a  
16              variance of that. That possibility  
17              is available to the owner of the  
18              property.

19             MS. BROOKS: I think we did  
20             discuss that last month. I mean  
21             Section 280-a requiring the road  
22             improvement is separate and distinct  
23             from the subdivision. There's  
24             nothing preventing the Planning Board  
25             from granting final approval to the

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

2                subdivision this evening with regard  
3                to the driveway access. We are aware  
4                of the fact that before a building  
5                permit would be granted, that the  
6                roadway providing access shall either  
7                be improved to a road specification  
8                established by the Town Board or in  
9                the -- or to an extent, in the  
10               judgement of the Zoning Board of  
11               Appeals, sufficient to allow ingress  
12               and egress of fire trucks, ambulances,  
13               police cars and other emergency  
14               vehicles. If it is determined that  
15               if access is adequate, and that  
16               generally is by the fire department  
17               because they're the ones who have  
18               those vehicles and need to get them  
19               in and out of there, that that would  
20               be acceptable.

21               So again, the action before  
22               this Board this evening is with  
23               regard to the subdivision. If the  
24               Board's determination is that we need  
25               to meet one of those conditions of



1       G U A R I N O   A S H L Y E N

2               280-a, then the applicant is willing  
3               to do that. That has nothing to do  
4               with the subdivision before the Board  
5               this evening.

6               We do have road frontage on --  
7               so we meet provision 1 of Section  
8               280-a. I think we talked about this  
9               last month. Jeff and I both agree  
10              about this. There's two provisions.  
11              One is that it has frontage on the  
12              plotted road and one is the roadway  
13              is suitably improved. So condition 1  
14              is met. Condition 2 will have to be  
15              met before a building permit is  
16              issued, just as in any other subdivision  
17              where a road needs to be constructed.  
18              It's really nothing different.

19              CHAIRMAN BRAND: Jeff?

20              MR. BATTISTONI: I just think  
21              the issue here is a broader one. I  
22              think the Planning Board wanted to  
23              look not only at this particular  
24              application but instances like this  
25              throughout the Town and try to

1       G U A R I N O   A S H L Y E N

2               develop a uniform policy for all of  
3               them.

4               The impression I had from two  
5               Planning Board Members at the site  
6               was that they would rather see the  
7               road be suitably improved. They  
8               don't want to grant subdivision  
9               approval for a lot that is not on an  
10              improved road.

11              CHAIRMAN BRAND: Is that  
12              something that could be part of the  
13              conditional approval, that they must  
14              improve the road?

15              MS. LANZETTA: No.

16              MS. BROOKS: So I'm not sure.  
17              Does the Planning Board actually have  
18              the authority to reject a subdivision  
19              approval when it's the building  
20              permit that's criteria'd on it?

21              MR. BATTISTONI: I think that a  
22              subdivision, that State statute, it  
23              says before such permit shall be  
24              issued such street or highway shall  
25              have been suitably improved to the

1       G U A R I N O   A S H L Y E N

2               satisfaction of the Town Board or  
3               Planning Board.  So I would say that  
4               that authority is there, that the  
5               statute does contemplate the Planning  
6               Board looking at this issue.

7               CHAIRMAN BRAND:  Comments from  
8               the Board?  Initial comments?

9               MR. GAROFALO:  Would you like  
10              some more time to review the deed  
11              information than you have gotten?

12             MR. BATTISTONI:  I don't know  
13             that that's necessary.  I certainly  
14             would take that time.  I think the  
15             issue, again, is broader than just  
16             this application.  I think this is  
17             something the Town wanted to look at  
18             to try to develop an overall policy  
19             for subdivisions that involve streets  
20             that aren't fully improved.  I don't  
21             know if that answers your question or  
22             not.

23             MS. LANZETTA:  This does not exit  
24             onto an improved road, the driveway.

25             MS. BROOKS:  So when you have a

1       G U A R I N O   A S H L Y E N

2               subdivision that proposes a new  
3               private roadway and you have four  
4               lots on a proposed private roadway,  
5               that plat is filed with the County  
6               Clerk before that road is constructed.

7               MR. HINES:   But it's also  
8               bonded.

9               MS. BROOKS:   That's fine.

10              MR. HINES:   It's secured.

11              MS. BROOKS:   I just don't want  
12              to confuse the issue.

13              MS. LANZETTA:  You're going to  
14              bond to improve that road before --  
15              that bond would be held until that  
16              road is improved before --

17              MS. BROOKS:   To the satisfaction --

18              MS. LANZETTA:  -- before a  
19              building permit would be --

20              MS. BROOKS:   It would have to  
21              be.  Again, I don't disagree with  
22              Section 280-a at all.  You know, I  
23              disagree with the Board's position on  
24              predicating the subdivision approval  
25              on that, because what happens if they

1       G U A R I N O   A S H L Y E N

2               improve the road and then the  
3       Planning Board changes their mind and  
4       has some other reason, then they're  
5       making an investment without having a  
6       benefit.

7               MS. LANZETTA:   So then you  
8       would be willing to set up a bond to  
9       improve the road as a condition of  
10      approval for this subdivision?

11              MS. BROOKS:   Right.  I think  
12      the first thing that we would need to  
13      establish is what is the standard  
14      that it needs to be brought up to for  
15      safe and adequate access, which would  
16      be determined by the Zoning Board of  
17      Appeals in conjunction with the fire  
18      department, and then a price could be  
19      set for the bond.

20              MS. LANZETTA:   Does the highway  
21      superintendent weigh in on that  
22      improvement?

23              MR. BATTISTONI:   I'm going to  
24      back up for a second.  If the public  
25      hearing is over I think you should

1       G U A R I N O   A S H L Y E N

2               close -- should we keep that open for  
3               any reason?  It didn't seem -- it  
4               seemed as though the public was done  
5               commenting.

6               CHAIRMAN BRAND:  I'll keep it  
7               open until we're done with the  
8               discussion.  Thank you.

9               MR. BATTISTONI:  Yes, I think  
10              the highway superintendent should  
11              weigh in on that in terms of what  
12              would be satisfactory to him in terms  
13              of improvement of that section of the  
14              road.

15              MR. HINES:  Typically in the  
16              example that Ms. Brooks used for a  
17              private road, we have a private road  
18              specification.  We have certain Town  
19              road specifications for varying  
20              degrees of Town roads based on the  
21              intensity of use.  We receive a plan  
22              that shows a design for one or more  
23              -- one of those roadways as specified  
24              in your street specifications and  
25              then their consultant that develops

1       G U A R I N O   A S H L Y E N

2               that plan also provides a cost  
3               estimate reviewed by my office and  
4               recommended to the Town Board to set  
5               the bond amount.  So there is an  
6               established procedure for that.

7               CHAIRMAN BRAND:  And would this  
8               be Town road specs or private road  
9               specs?

10              MR. HINES:  It's not a private  
11              road.  I think we're extending a Town  
12              road.  We do have a minor Town road  
13              spec that's 20 feet wide.

14              The problem that arises here is  
15              that, I don't know the history in  
16              1988, I was just coming under my  
17              company then and we didn't represent  
18              the Town, but that same specification  
19              has requirements for turnarounds.  
20              The cul-de-sac that we heard earlier,  
21              New York State Fire Code Appendix D  
22              has that T turnaround allowable.  It  
23              is certainly wider than the 50 feet  
24              proposed here or that exists here.

25              So there needs to be some sort

1       G U A R I N O   A S H L Y E N

2               of mechanism of making that dead end  
3               road able to be navigated by fire  
4               apparatus and other jurisdictional  
5               emergency vehicles. Typically those  
6               are sent to the applicant to resolve  
7               and reviewed by this Board, the  
8               highway superintendent and my office.

9               MS. LANZETTA: So your other  
10              option is to extend the driveway down  
11              to the portion that the highway  
12              superintendent said that he would be  
13              all right with.

14             MS. BROOKS: I'm sorry. I'm  
15              not understanding what you mean by  
16              extending the driveway all the way  
17              down to that portion.

18             MR. JENNISON: Extending it  
19              down to where the Town owns.

20             MS. LANZETTA: The driveway  
21              would come further down along the  
22              southern side of the Guarino  
23              property --

24             MS. BROOKS: Oh, yeah.

25             MS. LANZETTA: -- and it would



1       G U A R I N O   A S H L Y E N

2               enter Ruby Road at the blacktopped  
3               area.

4               MS. BROOKS:  Again, if you were  
5               out there I'm sure you noticed that  
6               that's not physically possible.  We  
7               did discuss that last month and --

8               MS. LANZETTA:  We looked at it  
9               and we felt it was physically possible.

10              MS. BROOKS:  Again, that's why  
11              I think you weren't a hundred percent  
12              aware of where the boundary line is.  
13              If you look at the topographic survey  
14              map, it's over a 20 percent grade  
15              along the property line adjacent to  
16              Ruby Road.

17              MR. JENNISON:  That's the line  
18              of trees you're talking about; right?  
19              Coming up around where the grass is?

20              MS. GUARINO:  Where the trees  
21              end.

22              MR. JENNISON:  And then there's  
23              a row of trees.

24              MS. BROOKS:  I don't have the  
25              trees shown on the map.  I'm not sure

1       GUARINO   ASHLYEN

2               what you're talking about, Steve.  
3               Again, that's why it's a little bit  
4               disappointing that we're having a  
5               public hearing and we're talking  
6               about something that we didn't get to  
7               participate in.

8               CHAIRMAN BRAND:   Jeff, it's  
9               clear that we are not moving towards  
10              approval this evening.  What, in your  
11              estimation, would be the best  
12              procedural move for us?

13              MR. BATTISTONI:   Again I'm  
14              going to look at this Section 280-a,  
15              which is the New York State Town Law.  
16              Subdivision A has a provision that  
17              says, "Alternatively, in the  
18              discretion of such board, a  
19              performance bond sufficient to cover  
20              the full course of such improvement  
21              as estimated by such board shall be  
22              furnished to the town by the owner."  
23              It seems to me you were talking about  
24              a performance bond before.  It seems  
25              to me that the applicant might be

1       GUARINO   ASHLYEN

2               willing to post one.  I couldn't  
3               tell.

4                       CHAIRMAN BRAND:  Is that a yes?

5                       MS. BROOKS:  Yeah.  Again, we,  
6               I think, need to go to the Zoning  
7               Board of Appeals and find out what  
8               the suitability of the improvement  
9               would be.  As noted, the suitability  
10              of improvement determination to be  
11              made by the Zoning Board is governed  
12              solely by a test of adequacy of  
13              emergency vehicle access under  
14              280-a(5) .

15                      I'm happy to get with Jeff.  I  
16              don't think that I'm obviously in a  
17              position to speak for the applicant.  
18              Alan was unable to be here this  
19              evening due to illness.  I certainly  
20              don't want to speak on behalf of the  
21              applicants.  I'm sure that we can get  
22              together with Jeff, if the Board  
23              would allow us to speak offline  
24              outside this meeting, and come up  
25              with something that would be

1       G U A R I N O   A S H L Y E N

2               satisfactory. Obviously we're going  
3               to need to get back with the highway  
4               superintendent because the last time  
5               the applicant spoke with him they  
6               received a letter from him saying  
7               that it was fine. So something has  
8               happened.

9               MS. GUARINO: Which they received.

10              MS. BROOKS: Of course they  
11              received it. Something has happened  
12              in the interim which we were not made  
13              privy to, which is unfortunate. We  
14              are where we are now and we want to  
15              find a way to move forward.

16              CHAIRMAN BRAND: Just to  
17              clarify, there's no objection from  
18              the Board having the attorney work  
19              something out? Is there any  
20              objection to that?

21              MS. LANZETTA: Again, I think  
22              Jeff makes the point that there also  
23              is a larger concern by the Town Board  
24              and the highway superintendent. We  
25              have to be careful that we're not

1       G U A R I N O   A S H L Y E N

2               being too specific on this particular  
3               subdivision as we move forward. The  
4               large picture has to be looked at as  
5               well.

6               If you're going to be meeting  
7               with the highway superintendent, I  
8               would also suggest, as the Department  
9               of State had suggested to us, that  
10              the Town Board also be privy to those  
11              discussions. Representatives of the  
12              Town Board.

13              CHAIRMAN BRAND: With that  
14              caveat, is there any objection from  
15              the Board?

16              MR. CLARKE: No.

17              MR. TRONCILLITO: No.

18              MS. LANZETTA: No.

19              MR. GAROFALO: No.

20              MR. JENNISON: No.

21              MR. LOFARO: No.

22              MR. CLARKE: I'll just make a  
23              comment that the State Law seems to  
24              be fairly clear in this, that there  
25              are two options available. I don't

1       GUARINO   ASHLYEN

2               know that from the Planning Board or  
3               the Town Board's point of view this  
4               is a major thing.  The State has  
5               obviously looked at it.  I would  
6               suggest we move forward with one of  
7               those two situations and it should  
8               resolve it.  Any other situations  
9               like this could also be resolved by  
10              the State rule.

11              CHAIRMAN BRAND:  That being  
12              said, I'd like to have a motion to  
13              close the public hearing.

14              MR. JENNISON:  I'll make a  
15              motion to close the public hearing.

16              MR. GAROFALO:  I'll second it.

17              CHAIRMAN BRAND:  Any discussion?  
18              (No response.)

19              CHAIRMAN BRAND:  Any objection?  
20              (No response.)

21              CHAIRMAN BRAND:  So you will  
22              then meet with the attorney and the  
23              Town Board to come up with something  
24              before you come back here.

25              MS. BROOKS:  Yeah.

1       G U A R I N O   A S H L Y E N

2                   Kathy, could you state for the  
3       record that you're going to waive the  
4       62 day timeframe from the time the  
5       public hearing is closed?

6                   We're hopeful this is going to  
7       get resolved very quickly. I don't  
8       want to put any of us in a situation  
9       where the Board has to make a  
10      decision prematurely in order to have  
11      a problem with the timeframe.

12                  MS. GUARINO: For the record,  
13      I'm willing to waive it.

14                  CHAIRMAN BRAND: Great. Duly  
15      noted.

16                  Anything else on that?

17                  MR. BATTISTONI: Not from me.

18                  MS. GUARINO: For the record,  
19      I'd also like it if we could be a  
20      part of any other site visit that  
21      happens on the property since there  
22      is some question about boundary lines  
23      and the topography of the actual  
24      driveway in question. Perhaps if  
25      either Patti can be there or someone

1       G U A R I N O   A S H L Y E N

2               from her office, or either Alan or I,  
3               it would be a nice courtesy to extend  
4               to us.

5                       CHAIRMAN BRAND:   Will do.

6               Thank you.

7                       MS. BROOKS:   Thank you.

8

9                       (Time noted:   8:00 p.m.)

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 13th day of April 2022.

Michelle Conero

---

MICHELLE CONERO

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

- - - - - X  
In the Matter of

VERIZON - MARLBORO HIGH SCHOOL

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

- - - - - X

PUBLIC HEARING - SITE PLAN

Date: April 4, 2022  
Time: 8:00 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

BOARD MEMBERS: CHRIS BRAND, Chairman  
CINDY LANZETTA  
JOSEPH LOFARO  
STEVE CLARKE  
ROBERT TRONCILLITO  
STEPHEN JENNISON

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

APPLICANT'S REPRESENTATIVE: DAVID BRENNAN,  
FRANK MURRAY & ASIF SHARIF

- - - - - X

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

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 tonight we have Verizon -  
4       Marlboro High School for a site plan  
5       at 50 Cross Road in Marlboro.

6                   MR. GAROFALO:   Mr. Chairman --

7                   CHAIRMAN BRAND:   You are  
8       recusing yourself.

9                   MR. GAROFALO:   I just want to  
10      point out to the public that I'm  
11      recusing myself because Verizon put a  
12      tower on my property.

13                  CHAIRMAN BRAND:   Thank you.

14                  "Legal notice, special use  
15      permit/site plan application.   Please  
16      take notice a public hearing will be  
17      held by the Town of Marlborough  
18      Planning Board pursuant to the Town  
19      of Marlborough Town Code Section  
20      152-17 and Section 155-31 on April 4,  
21      2022 for the application of Cellco  
22      Partnership d/b/a Verizon Wireless at  
23      Marlboro High School at the Town  
24      Hall, 21 Milton Turnpike, Milton, New  
25      York at 7:30 p.m. or as soon

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2                thereafter as may be heard.    The  
3                applicant is here for a special use  
4                permit and a site plan approval of  
5                the new wireless telecommunications  
6                facility on lands located at 50 Cross  
7                Road, Marlboro, New York 12547,  
8                Section 108.4; Block 2; Lot 71.100.  
9                Any interested parties either for or  
10              against this proposal will have an  
11              opportunity to be heard at this time.  
12              Chris Brand, Chairman, Town of  
13              Marlborough Planning Board."

14                      MR. JENNISON:    12542.

15                      CHAIRMAN BRAND:    12542.    Yes.  
16              Thank you.    I thought maybe the high  
17              school had its own zip code.

18                      How many mailings were sent out  
19              and how many did you get back?

20                      MR. BRENNAN:    Sir, we sent out  
21              59 and I have one envelop that's been  
22              returned.    They were sent out on the  
23              24th of March.

24                      CHAIRMAN BRAND:    Thank you.  
25              You will give those to the secretary.

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2                    Before we begin tonight; Mr.  
3        Musso, good evening.

4                    MR. MUSSO:    Good evening.

5                    CHAIRMAN BRAND:    How are you  
6        tonight?

7                    MR. MUSSO:    I am well.    I hope  
8        the Board is well, and the public  
9        also.

10                   CHAIRMAN BRAND:    Would you like  
11        to provide us with an update?

12                   MR. MUSSO:    I can give you a  
13        brief update tonight.    Thank you for  
14        the opportunity to do that.

15                   We were here I believe in March  
16        for a brief meeting.    Shortly after,  
17        a voluminous submittal of supplemental  
18        information was provided.    The main  
19        points of that were responses to HDR's  
20        comments, were some drawing updates  
21        that we had asked for.

22                   The big point was the visual  
23        analysis.    We had asked for specific  
24        simulations.    This of course all  
25        followed a balloon test that was

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2                noticed and that occurred on Monday,  
3                January 31st.

4                Maybe the most significant  
5                thing for this Board and the decision  
6                for site plan/special permit was the  
7                radiofrequency justification for the  
8                site. So we had seen something in  
9                the first submittal. Our completeness  
10               memo in early January asked some  
11               additional questions. I noted in  
12               March that just about everything was  
13               responded to.

14               One thing that was out at that  
15               time was a copy of the SHPO  
16               correspondence. On March 25th the  
17               applicant submitted all of a two-page  
18               e-mail on that. My experience here  
19               with the Board, looking at another  
20               cell tower a few years ago, Ann  
21               Kaley, I would love to get any  
22               feedback that this Board might have  
23               on SHPO or visuals. I feel that if  
24               the visuals were submitted, it would  
25               definitely give this Board some

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2                permutations, colors, co-location  
3                scenario.

4                We know when towers are built,  
5                oftentimes other carriers will  
6                look to come on and co-locate.  
7                We did ask for an alternate height  
8                scenario. The monopole proposed at  
9                the high school is 90 feet in height.  
10               It's up on the bluff behind the  
11               athletic fields. As you may have  
12               seen during the balloon test and in  
13               the application materials, in March  
14               the applicant discussed that they  
15               didn't feel compelled to submit  
16               alternate height simulations. We  
17               have 90 feet. Our tech memo is going  
18               to evaluate that a little more, maybe  
19               show some of the simulations with  
20               dashed line height extensions. The  
21               reason I asked for that is I'm not  
22               proposing taller monopoles by any  
23               means, and your code does not require  
24               that, but the reality is that there  
25               could be requests by other carriers

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2                for taller poles. I think it's very  
3                important that this Board at least  
4                has some understanding of how things  
5                may look.

6                That being said, the site is  
7                not hidden within tree lines. The  
8                topography and its coverage objectives  
9                are looking to get to the west of the  
10              site, Plattekill Road and Lattintown  
11              Road.

12              I think the RF justification  
13              that's been provided to date justifies  
14              the need for a site, both on coverage  
15              and also on capacity.

16              We asked for and received  
17              information on surrounding cell sites  
18              that Verizon uses. The two that are  
19              pertinent to this site are often  
20              Mount Zion Road, the tower about  
21              three and-a-half miles away in  
22              Marlboro, and one across the river in  
23              Wappingers Falls.

24              We asked for information on the  
25              aforementioned Ann Kaley cell tower,



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2                whether or not that could be used as  
3                a co-location site. After all, it's  
4                already a built structure. That site  
5                is about 3,000 feet to the north.  
6                Based on the topography, it's just  
7                not getting the coverage that would  
8                be needed. I think co-location at  
9                that unfortunately is ruled out.  
10               But, you know, we wanted to get the  
11               due diligence for that because that  
12               is, I think, your highest priority in  
13               the code as far as where carriers  
14               could hang antennas from.

15               So this is a new site. I'd be  
16               very interested tonight, as we're  
17               finishing up our tech memo, which  
18               I'll get to you far in advance to the  
19               next meeting when this item is on the  
20               agenda, I'd be very interested to  
21               hear if there are any public comments  
22               tonight that I can incorporate and  
23               respectfully consider in our analysis.  
24               Of course if there's any written  
25               comments, I'll keep in touch with Jen

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2            if anything comes in on that.

3            One or two items just worth  
4            mentioning. There was a letter from  
5            the Ulster County Planning Board  
6            regarding the referral of this  
7            application. Of course now there's  
8            been new information submitted. I  
9            thought the comment was interesting  
10           in that Ulster County is looking to  
11           co-locate Town emergency services or  
12           County emergency services on such  
13           cell towers. So, you know, that's  
14           something I think Verizon has said in  
15           the past that they're absolutely  
16           willing to entertain. I think this  
17           is a good time maybe just to really  
18           put some pen to paper if the Town  
19           of Marlborough is interested, maybe  
20           the DPW or fire, police, if they  
21           have an antenna they might be  
22           interested in co-locating. Should  
23           this tower be approved and  
24           constructed, I think it would be a  
25           good time to think about that a

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2             little bit further.

3                     Other than that, I would  
4       propose that HDR, myself, would work  
5       with the Planning Board Attorney  
6       sitting next to me on the shot clock.  
7       That's something that you always hear  
8       with these applications. The shot  
9       clock was on hold for a while, until  
10      the February 28th submittal. So  
11      that's something -- we have to keep  
12      the application moving under FCC  
13      regulations. Clearly this Board is  
14      doing that by having meetings and  
15      these discussions and opening the  
16      public hearing at this point.

17                    So I look forward to getting  
18      our tech memo in to you. It will be  
19      somewhat voluminous. I do want to  
20      include images that are key to the  
21      radiofrequency justification and the  
22      visuals. There will be a number of  
23      findings and recommendations at the  
24      end that will summarize with that.

25                    CHAIRMAN BRAND: Thank you.

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2                    Comments from the applicant?

3                    MR. BRENNAN:    Sure.    Good  
4                    evening, ladies and gentlemen.    My  
5                    name is Dave Brennan with the law  
6                    firm of Young, Sommer out of Albany.  
7                    With me tonight to my left is Asif  
8                    Sharif who is an RF engineer from  
9                    Verizon Wireless.    If we need to get  
10                    deep into any questions on RF  
11                    matters, he's here to help me with  
12                    that.    Also Frank Murray from  
13                    Tectonic Engineering who is the site  
14                    acquisition specialist, who is, I  
15                    like to say, in charge of knocking on  
16                    doors and finding proposed sites.

17                    So good evening, everyone.  
18                    This is my second appearance on this  
19                    matter.    To follow up with what Mr.  
20                    Musso was starting with is to layout  
21                    the expectations.    It's not my  
22                    expectation to come into Town and  
23                    have a public hearing and have a  
24                    decision tonight.    Certainly he's  
25                    already stated his position on that.

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2                We'd certainly agree with that.  
3                Tonight I'm going to do a quick  
4                overview of the project, the Board  
5                has seen it, explain it to the folks  
6                in the public that are here tonight  
7                to comment, listen to those comments  
8                and, like Mr. Musso, I'll take those  
9                comments back and we'll provide  
10               responses or clarifications as  
11               necessary.

12               I can talk about these things,  
13               probably maybe not as long as Mr.  
14               Musso. I'll try to keep it brief and  
15               get it over to the floor for the  
16               public comment. Basically in  
17               summary, this is a proposed 90-foot  
18               tall monopole tower at the high  
19               school, at 50 Cross Road. It's up in  
20               the upper northeast corner up on the  
21               bluff. It will be surrounded by a  
22               50-foot fenced compound at its base  
23               within which our equipment will be  
24               located. The monopole then rises 90  
25               feet. On top of the 90 feet is a 4-

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2                foot lightning rod about the size of  
3                one of your fingers. That's for  
4                lightning protection.

5                Starting at the top, there is  
6                no light proposed for aircraft  
7                warning or obstruction purposes  
8                because of its height and location.  
9                Beneath that are the Verizon Wireless  
10               antennas. I won't get too deep into  
11               the RF justification other than to  
12               talk about and to reiterate that  
13               we've identified this area through an  
14               analysis of the existing coverage as  
15               well as those surrounding sites, that  
16               there is a very appropriate necessity  
17               for a new site to provide coverage  
18               and capacity to this area, the  
19               southern area of the Town. So we'll  
20               be serving that with the standard  
21               Verizon Wireless panel antennas that  
22               you're accustomed to seeing on  
23               cellphone towers. Beneath that there  
24               is room for up to -- we show two  
25               additional co-locators. I imagine

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2               possibly three.

3               The visual renderings that were  
4               provided did show from a variety of  
5               perspectives. We discussed at the  
6               last month's meeting that those  
7               antennas were visible. We could  
8               expect there is the ability to  
9               provide service. Certainly Mr. Musso  
10              and the RF folks will tell you that's  
11              a function of their other sites and  
12              what they are trying to do. That is,  
13              as I explained previously, the  
14              tension between having a very low  
15              tower and keeping it as close to the  
16              ground as possible or having -- in  
17              the old days we'd always come in with  
18              199 feet. There was no doubt that  
19              there was room beneath us. That is  
20              the tension of having a shorter  
21              tower, is there's the possibility  
22              that the next person in, although  
23              there's room below, may not be able  
24              to justify that from an RF perspective.

25              Within our fenced compound is

13                   Then from there there's a  
14           12-foot wide driveway that winds its  
15           way down to the existing high school  
16           parking lot.

21                   We did submit an RF safety  
22                   analysis that provides that even with  
23                   all the antennas and all the frequencies  
24                   deployed at full strength, it will be  
25                   less than 1 percent of what is allowed



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2            by the FCC for strength. I would  
3            point out that we don't operate like  
4            a radio station where -- I always  
5            reference PYX 106 up in Albany where  
6            it transmits at 50,000 watts, trying  
7            to reach Lake George. These sites go  
8            off and on in response to communications  
9            from your handsets. Notwithstanding  
10           that, we've run the analysis as if  
11           everything is turned on. There will  
12           be -- one of the questions that came  
13           up is there will be the 5G technology  
14           deployed on this which is our 5G  
15           nationwide. The C-band or mid-band.  
16           We're not deploying the 5G ultra wide  
17           high band which sometimes people ask  
18           the distinction or question about  
19           that. That was clarified in a response  
20           to Mr. Musso back in March.

21                    That is a quick overview of  
22                    what we're proposing.

23                    We did do the initial visual  
24                    resource evaluation and an additional  
25                    balloon fly on notice. The Board has

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2                that. I know it's on the Town's  
3                website.

4                With that, I will answer any  
5                questions and turn it back over to  
6                the Board.

7                CHAIRMAN BRAND: Thank you.

8                Questions or comments from the  
9                Board?

10               MR. TRONCILLITO: Just one.  
11               Last month I mentioned about the  
12               emergency services having access. My  
13               Board of Fire Commissioners would be  
14               interested because that would improve  
15               the western part of our district.  
16               Could you make sure that's in  
17               writing, because I know what we went  
18               through on Kaley Lane? That's why  
19               I'm asking.

20               MR. BRENNAN: Certainly. I  
21               apologize. Mr. Musso mentioned that  
22               in his initial comments and I should  
23               have picked up on that. I did  
24               indicate last time that I thought  
25               that would be no problem. I did

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2               confirm that with Verizon. We  
3               routinely allow for municipal co-  
4               location at no rent. There is a  
5               standard process to just submit the  
6               equipment, the loading, the  
7               frequencies. No different than any  
8               other tower. We're able to do that.  
9               I can confirm that in writing  
10              certainly as a condition of any  
11              approval when we get to that point in  
12              the discussions which will be in the  
13              future. But I will -- I do have a  
14              letter that I did up in Essex County  
15              for one of these. I will get that in  
16              to Mr. Musso so you have it in  
17              writing that that is acceptable. I  
18              did bring that back to Verizon after  
19              the last meeting.

20              MR. TRONCILLITO: Thank you.

21              MR. BRENNAN: You're welcome.

22              CHAIRMAN BRAND: Any other  
23              questions or comments from the Board  
24              before I open it up?

25              (No response.)

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2                    CHAIRMAN BRAND:   If you are a  
3                    member of the public here for this  
4                    public hearing and have a question or  
5                    a comment, please stand and state your  
6                    name for the stenographer, please.

7                    MS. SIMONOFSKY:   Nikki  
8                    Simonofsky, Marlboro, New York.   I'm  
9                    just a little confused about the  
10                   location of the tower.   Is it going  
11                   to be -- because you said behind the  
12                   athletic field.   Is that towards the  
13                   Jackson Avenue side or is that  
14                   towards the Plattekill Road side by  
15                   the tennis courts?

16                   MR. LOFARO:   Jackson.   Behind  
17                   the tennis courts, up on top of the  
18                   hill.

19                   MS. SIMONOFSKY:   Well the  
20                   tennis courts are on the left.

21                   MR. CLARKE:   It's at the  
22                   highest point of the property.

23                   MS. SIMONOFSKY:   Behind the  
24                   maintenance garage area.   Okay.

25                   And so the school board

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2           obviously is all in favor of this  
3           having an access right-of-way.  Is  
4           that done legally with the  
5           right-of-way to get to your  
6           equipment?  What is the school  
7           board's position?  I guess that's the  
8           easiest question.

9                   MR. BRENNAN:  Sure, ma'am.  So  
10          the school board has approved a lease  
11          with Verizon Wireless which includes  
12          the leased area, which is -- I  
13          apologize.  I like to talk into the  
14          microphone and not throw my back to  
15          you.  The leased area is a 100 by 100  
16          foot square within which the 50 by 50  
17          compound is.  From there and basically  
18          following roughly the northerly  
19          boundary and going from the site due  
20          west is an access and utility  
21          easement which then meets up with the  
22          existing asphalt, I'll call it the  
23          edge of the parking lot, towards the  
24          northern end of the property.

25                   MS. SIMONOFKY:  And then is

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2               the school district compensated for  
3               an annual fee for that placement?

4               MR. BRENNAN:   Yes, they are, ma'am.

5               CHAIRMAN BRAND:   Any other questions  
6               or comments from the public?   Please  
7               state your name for the stenographer.

8               MR. GERENTINE:   Richard  
9               Gerentine. I'm here tonight speaking  
10              as a taxpayer.   Just going a little  
11              bit further with Nikki's question,  
12              what is the mutual financial agreement  
13              with the school board and Verizon  
14              regarding the tower?

15              CHAIRMAN BRAND:   I don't believe they  
16              disclose that.   We asked that for the  
17              previous one.   That's not --

18              MR. GERENTINE:   It should be  
19              public information through the school  
20              or through the Town.

21              MR. BRENNAN:   Sure.   I took a  
22              look at it today anticipating that  
23              question.   I have it as \$18,000 is in  
24              the lease that I looked at today.   I  
25              apologize, I didn't do the leasing on

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2                this. My colleague Scott Olson is  
3                normally here. I do agree with the  
4                speaker that because it's with the  
5                school district, it's subject to the  
6                Freedom Of Information Law. I have  
7                no difficulty saying that that is  
8                subject to public disclosure.

9                MR. GERENTINE: So it's 18,000?

10              CHAIRMAN BRAND: That's what he  
11              said.

12              MR. GERENTINE: All right.

13              UNIDENTIFIED SPEAKER: Is that  
14              a year?

15              MR. GERENTINE: 18,000 a year?

16              MR. BRENNAN: I'm sorry. Yes.  
17              I wish it was a month. No. It's a  
18              year.

19              MR. GERENTINE: Can I go on,  
20              please?

21              CHAIRMAN BRAND: Absolutely.

22              MR. GERENTINE: Thank you.

23              Here again I have to agree with Mr.  
24              Troncillito regarding the access on  
25              the antenna for Ulster County

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2           services, fire services, highway  
3           services. It's very much needed back  
4           here. A very big need over the  
5           years. I would hope that's included  
6           into the contract in many different  
7           ways because it is totally needed.  
8           There's no other place to put it.  
9           You're doing something that can  
10          accommodate a lot of things.

11                 I'm also speaking here tonight  
12          as a -- that we very much need this  
13          antenna. You go around Town, you're  
14          talking on 9W, you're talking by the  
15          school. You can't even talk on the  
16          cellphone. I mean it's really  
17          embarrassing. You're at a football  
18          game, a baseball game, you're at  
19          other sporting events. I mean you  
20          can't speak at all up there.  
21          Hopefully that's going to be resolved  
22          if this antenna goes up. Correct?

23                 MR. BRENNAN: Yes. It will  
24          provide a significant improvement in  
25          the coverage in quality of signal and



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               service in the Town.

3               MR. GERENTINE:   So we would be  
4               able to communicate on our cellphone  
5               up there?

6               MR. BRENNAN:   I can only speak  
7               as long as you have Verizon Wireless.

8               MR. GERENTINE:   All right.  
9               Also I'm here because I want to put a  
10              cell tower down in my place in the  
11              middle of Town.  Unfortunately we're  
12              not high enough and we don't meet the  
13              zoning regulations and many other  
14              factors.  I contacted Verizon.  We've  
15              been talking about this for six  
16              years, seven years.  I don't know how  
17              many years.  Many years, let's put it  
18              that way.  It is definitely needed.  
19              There's no question that we lack  
20              service throughout our Town in many  
21              different areas.  Hopefully this will  
22              correct a lot of that missing of the  
23              service.

24              But there again, very important  
25              that you have, you know, the different --

1       VERIZON - MARLBORO HIGH SCHOOL

2           911, the fire district, town  
3           highway and everything else to be  
4           included. I mean if you're going to  
5           come back and you're going to charge  
6           the Town people for the antenna, you  
7           have to charge them, we didn't gain  
8           anything throughout this whole thing.  
9           That definitely would have to be in  
10          the contract.

11                 I mean there are a couple  
12           drawbacks. I mean there again this  
13           is progress. I think it's very  
14           positive progress. I'm totally  
15           behind this. Hopefully it can move  
16           forward.

17                 What is the timeframe if you  
18           get approval within the next couple  
19           months?

20                 MR. BRENNAN: My belief is it's  
21           on the build plan for this year, but  
22           sometimes I am wrong about that. At  
23           this point we're permitting sites and  
24           we're putting them into construction  
25           fairly quickly. I would have to

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                confirm that. I expect at this point  
3                it's going into construction and we  
4                want to build it.

5                MR. MUSSO: If I could add to  
6                that. If this is approved it would  
7                still need a building permit which  
8                would have a foundation analysis and  
9                a structural analysis and things like  
10               that.

11               MR. GERENTINE: So there again,  
12               other than my concerns that I brought  
13               up here tonight, I'm totally behind  
14               this project. The sooner the better  
15               because I think it benefits all  
16               taxpayers in the Town of Marlborough.

17               Good luck. Get going.

18               MR. BRENNAN: Thank you.

19               CHAIRMAN BRAND: Thank you.

20               MS. TEDDIANN SCHMELZ: My name  
21               is Teddiann Schmelz. I live on  
22               Elliott Lane which is right at the  
23               top of that hill. I have a lot of  
24               health concerns regarding that tower.  
25               My mother-in-law is right next to

1       VERIZON - MARLBORO HIGH SCHOOL

2               where that tower is going to go. You  
3               know, what can you tell me as far as  
4               any kind of health issues? What is  
5               the distance that it's going to be  
6               from her house?

7                       CHAIRMAN BRAND: Mr. Musso.

8                       MR. MUSSO: I'd be happy to  
9               take a shot at that. It's a great  
10              question. I'm not exactly sure where  
11              your home is but I do have a map I  
12              could show you where this is and we  
13              could look at it, we can zoom out.

14                     The standard that's applied to  
15              this, the health-based standard is  
16              known as the maximum permissible  
17              exposure level. It's endorsed by the  
18              Federal Government. It's published  
19              by the FCC who controls signal and  
20              bandwidth and the licenses of  
21              carriers like Verizon. The sister  
22              agencies have also looked at that  
23              standard.

24                     We're getting into things  
25              called 5G now. If you watch any kind

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 sports show or anything with  
3            commercials, you hear about 5G.  
4            There's 5G that's out now operating  
5            at very similar frequencies to what  
6            has been cellular and PCS for many  
7            years, since the late 1990s. It was  
8            noted here by the applicant rep  
9            tonight that it is called mid-band.  
10          Not to bore you with numbers, but  
11          3,500, 3,700 megahertz. There's  
12          something coming down the pike which  
13          is much higher frequency, and that's  
14          something the public is more  
15          concerned with. However, that's not  
16          being proposed here. If that ever  
17          was proposed to be at that site, an  
18          applicant like Verizon, if they  
19          wanted to upgrade and change they  
20          would have to go through a process  
21          with that.

22                So the health-based standards  
23                of everything that's being proposed  
24                right now are things that have been  
25                endorsed over time.

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 know that this Board knows  
3                    that debating RF initiatives and  
4                    safety if compliance is demonstrated  
5                    is something that municipal  
6                    governments can't take an action on,  
7                    meaning it's kind of out of their  
8                    hands. I'll say forget that because  
9                    this is a very important question and  
10                    concern.

11                    The applicant has submitted a  
12                    radiofrequency emissions report and  
13                    statement. They did include the  
14                    tower, the height, the topography and  
15                    frequencies that they would be  
16                    operating at. Essentially if you're  
17                    on the end or distance up or down  
18                    topography, you're going to be  
19                    probably within the order of 1 to 5  
20                    percent of the allowable level.  
21                    You're going to be 20 times or more  
22                    below that. In fact, you may be  
23                    getting more from your cellphone at  
24                    times. Your cellphone has signal.  
25                    So it's an excellent question.

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 documentation that has been  
3            submitted to this point shows  
4            compliance with the health-based  
5            criteria that's out there.

6            One other thing that's come up  
7            sometimes with questions are things like  
8            electronic devices or pacemakers.  
9            The frequencies that are allowed by  
10           commercial carriers are actually --  
11           those devices are regulated by the  
12           Food and Drug Administration. They  
13           are very cognizant of saying is there  
14           any electric disruption to things. So  
15           the frequencies that people like  
16           Verizon are allowed to operate on are  
17           very specific. In this case of the  
18           tower, you're well below the health-  
19           based standard.

20           MS. TEDDIANN SCHMELZ: There's  
21           a lot of studies that tell you within  
22           meters, like 300 meters, 400 meters,  
23           that you can really get a lot of  
24           different health issues. Any health  
25           issues. So I'm very concerned about

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            that. I don't know if -- how ever  
3            you decided where it's going to go,  
4            do you know the distance between the  
5            homes, because there's a lot of homes  
6            up there?

7            MR. MUSSO: Right. That's  
8            something we're looking at. I have a  
9            map here with the proposed site and  
10           the distance to homes. There are a  
11           lot of studies. A lot of them have  
12           not been endorsed. I have to say  
13           that.

14           I think the concerns about the  
15           higher frequency 5G, which is really  
16           for urban and downtown areas, it's  
17           not going to make its way into  
18           Marlborough for a long time. There's  
19           going to be more study and scrutiny  
20           about it than what's being proposed  
21           at this site.

22           So I hope that answered some of  
23           this. Our tech memo we submitted,  
24           there will be a section on  
25           radiofrequency compliance that will



1       VERIZON - MARLBORO HIGH SCHOOL

2               help explain this in words a little  
3               bit better.

4               MS. MARIE SCHMELZ:  Marie  
5               Schmelz.  I do live -- I can see the  
6               goal post from the extra high school  
7               football field.  I really -- is this  
8               a done deal?  I mean was this meeting  
9               just a formality and it's already in  
10              place and it's going to happen  
11              regardless of what we want?

12             CHAIRMAN BRAND:  Nothing is a  
13              done deal until it's complete.

14             MS. MARIE SCHMELZ:  By that  
15              time it's too late to do anything  
16              then, isn't it?

17             CHAIRMAN BRAND:  That's why we  
18              have these meetings, to address your  
19              concerns.  We look at the health and  
20              safety standards.  We have a  
21              consultant to address many of these  
22              issues.

23             MS. MARIE SCHMELZ:  What would  
24              it do to ground -- underground, like  
25              to our water?  We're all well water

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                up there. I mean the frequencies are  
3                above but I'm sure it must drop down  
4                to the ground, too.

5                MR. MUSSO: Well, that's  
6                another good question, because I'm  
7                working on a couple sites actually on  
8                municipal water tanks where antennas  
9                are placed on them. So that question  
10               has come up. When you hear radiation  
11               you might think of x-rays, gamma  
12               rays. This is a different type of  
13               radiation. It doesn't readily  
14               penetrate surfaces or the body. It's  
15               relatively low signal that is aimed  
16               at the horizon. After all, that's  
17               where you're using your cellphone, in  
18               a car, maybe out for a hike, maybe in  
19               your yard or home, watching a  
20               sporting event at the high school.  
21               So the physics behind this would not  
22               allow anything deleterious to go on  
23               with things like drinking water or  
24               affecting surfaces.

25               One of the dangers that I've

1       VERIZON - MARLBORO HIGH SCHOOL

2               experienced with this are on rooftops  
3               at say apartment buildings where  
4               people might be using the rooftop to  
5               sunbathe. Being within one or two  
6               feet, there's actually a heating  
7               factor that might be realized. Once  
8               you get out of that near field, which  
9               is just a couple feet from the face  
10              of the antenna, you're going to be  
11              very quickly in compliance with that  
12              health-based standard I was talking  
13              about.

14              So definitely good questions.  
15              I hope that gave you a little bit of  
16              insight.

17              MS. MARIE SCHMELZ: All those  
18              children that are in that building,  
19              they're all going to be safe?

20              MR. MUSSO: This is compliant  
21              with the standard that's out there.  
22              I think each and every one of those  
23              children have a cellphone and a  
24              tablet.

25              MS. MARIE SCHMELZ: Sure they

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                do, but that's not -- that doesn't  
3                mean that they have enough foresight  
4                and common sense to say that this is  
5                going to be harmful to me somewhere  
6                down the road.

7                MR. MUSSO:   I have no further  
8                comment on that.

9                MS. MARIE SCHMELZ:   Okay.  
10               Thank you.

11               CHAIRMAN BRAND:   Thank you.

12               Any other additional comments  
13               or questions?   Nikki.

14               MS. SIMONOFSKY:   Nikki  
15               Simonofsky again. Just to follow up  
16               with Mr. Troncillito's comment and  
17               Mr. Gerentine's comment, would County  
18               Emergency Services also be provided  
19               on the tower at no charge or only  
20               Town?

21               MR. TRONCILLITO:   I'm going to  
22               call the fire coordinator tomorrow  
23               morning.   He will get with Eric who  
24               is the head man in the emergency  
25               services up there to see if they'd be

1       VERIZON - MARLBORO HIGH SCHOOL

2               interested in coming down.

3               CHAIRMAN BRAND:  You said yes  
4               to that as well.  Correct?

5               MR. BRENNAN:  There's not going  
6               to be an objection to putting up the  
7               antennas that are needed for the  
8               municipal services, whether it's  
9               County or local -- the fire district  
10              or highway.

11              MR. TRONCILLITO:  Right now our  
12              County is in the middle of a whole  
13              complete new radio system.  The  
14              biggest problem is about getting  
15              tower sites and getting permission to  
16              put those towers up for emergency  
17              services, the police and fire.  The  
18              biggest problem is down here in the  
19              southern end.  The northern end has  
20              serious problems with communication.  
21              They might be interested.  I'm going  
22              to give them a call tomorrow.

23              MR. BRENNAN:  Understood.  I  
24              was going to ask you what the  
25              situation -- I've done this for

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                different counties where I've helped  
3                them with their system. I was  
4                wondering if it was a County system  
5                or the individual districts.

6                MR. TRONCILLITO: A complete  
7                County system.

8                MR. BRENNAN: It's not going to  
9                make a difference what level of  
10               municipal entity it is that needs the  
11               assistance with this.

12               CHAIRMAN BRAND: Great.

13               Anything else from the public?

14               (No response.)

15               CHAIRMAN BRAND: Jeff, anything  
16               to add here?

17               MR. BATTISTONI: I don't have  
18               anything to add.

19               CHAIRMAN BRAND: Anything else  
20               from the Board?

21               (No response.)

22               CHAIRMAN BRAND: Mr. Musso, we  
23               are good with closing the public  
24               hearing this evening and moving  
25               forward and digesting these comments?

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                    MR. MUSSO:   Your inclination,  
3                    yeah.   If that's something that you  
4                    find acceptable.   I know you still  
5                    have to have my report which I'm  
6                    committed to submitting, of course,  
7                    and discussing.   But I would have no  
8                    problem with that.

9                    CHAIRMAN BRAND:   That being  
10                    said, I'd like a motion to close the  
11                    public hearing.

12                    MR. JENNISON:   I'll make a  
13                    motion to close the public hearing.

14                    MR. LOFARO:   Second.

15                    CHAIRMAN BRAND:   Steve.  
16                    Seconded by Joe.

17                    MR. LOFARO:   Sure.

18                    CHAIRMAN BRAND:   Any discussion?  
19                    (No response.)

20                    CHAIRMAN BRAND:   Any objection?  
21                    (No response.)

22                    CHAIRMAN BRAND:   Okay.   Thank  
23                    you.   I think we'll move on to the  
24                    next --

25                    MR. BRENNAN:   Okay.   We'll be

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                    on the agenda next month, sir?

3                    CHAIRMAN BRAND:    Yes.

4                    Mike, a question about the shot  
5                    clock moving forward.

6                    MR. BATTISTONI:    We'll work on  
7                    that.    I think we're within the  
8                    timeframe.    I'll also work with the  
9                    applicant's attorney on that.

10                   MR. BRENNAN:    I did a quick  
11                   rundown.    I think we're within the  
12                   shot clock.    Mr. Musso indicated that  
13                   there was -- it was paused during the  
14                   pendency. Even running 150 days from  
15                   the initial submission, we have time  
16                   into May, and then with the pause on  
17                   it, too.    We can address that at the  
18                   next meeting.    We appreciate that the  
19                   Board is diligently considering this.  
20                   While we have to pay attention to  
21                   that, I'm not hitting on the table  
22                   about that at all.    You're not the  
23                   problem case about shot clock issues.  
24                   CHAIRMAN BRAND:    Great.    Thank  
25                   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                    MS. FLYNN:   So the April 18th  
3                    meeting?

4                    CHAIRMAN BRAND:   Yes.   The next  
5                    meeting.   Yeah, April 18th.

6                    MS. FLYNN:   Okay.

7                    MR. BRENNAN:   Wonderful.   Thank  
8                    you very much for your time tonight,  
9                    and thank you to the public.

10                   CHAIRMAN BRAND:   We thank those  
11                   of you that came out and asked  
12                   questions tonight.

13

14                   (Time noted:   8:40 p.m.)

15

16

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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 12th day of April 2022.  
18

19  
20  
21                    *Michelle Conero*

22                    \_\_\_\_\_  
23                    MICHELLE CONERO  
24  
25

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

- - - - - X  
In the Matter of

POLLOCK SITE PLAN

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

- - - - - X

FINAL - SITE PLAN

Date: April 4, 2022  
Time: 8:40 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

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

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

APPLICANT'S REPRESENTATIVE: BARRY MEDENBACH

- - - - - X

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

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 its  
5 final on their site plan. We are  
6 here for final.

7 Jeff, I know that you have  
8 prepared a SEQRA negative declaration  
9 and notice of determination of  
10 nonsignificance as well as a  
11 resolution of site plan approval for  
12 the combined applications. Anything  
13 we need to know before I ask for  
14 comments or questions from the Board?

15 MR. BATTISTONI: I'll say that  
16 there are actually two applications  
17 here. One was for a lot line  
18 revision, the other was for site plan  
19 approval. They were so intertwined  
20 that I combined them for purposes of  
21 the approval resolution. In the  
22 SEQRA resolution a lot line revision  
23 is a Type 2 action anyway, so it  
24 doesn't need any environmental  
25 review. I just thought that was a

1 POLLOCK SITE PLAN

2 good way to handle it so you've got  
3 one resolution that covers both of  
4 the applications.

5 CHAIRMAN BRAND: Great. Thank  
6 you.

7 Comments or questions from the  
8 Board?

9 MR. GAROFALO: I have one  
10 comment. On page 5 of the SEQRA,  
11 there was a change to the square  
12 footage. In your written comments  
13 you said 162 but on the document I  
14 think it says 166. I don't know if  
15 you corrected that.

16 MR. BATTISTONI: Are you  
17 questioning my typing?

18 MR. GAROFALO: Not your typing.

19 MR. BATTISTONI: You're correct,  
20 it does say 166. It should say 162.  
21 Please make that correction.

22 CHAIRMAN BRAND: Page 5, 166,  
23 make it 162.

24 MR. BATTISTONI: Yes. Mr.  
25 Garofalo pointed it out to me twice.

1 POLLOCK SITE PLAN

2 I apologize for that.

3 MR. GAROFALO: Just one other  
4 thing. It's really at the purview of  
5 the Town Board. I hope that in the  
6 review of the transportation  
7 improvements, that consideration will  
8 be given to moving the accessible  
9 spots to the west near or adjacent to  
10 Milton Turnpike in accordance with  
11 the U.S. Government guidelines that  
12 have been also approved as a standard  
13 by the U.S. DOT, both for pedestrian  
14 safety, for drainage, access to the  
15 building and many other reasons. I  
16 hope that will be a change that will  
17 end up made in the final plans.  
18 That's up to the Board.

19 I think certainly this is  
20 probably the best project  
21 environmentally, transportation  
22 improvements and public improvements  
23 that I have seen as a Board Member.

24 Thank you.

25 CHAIRMAN BRAND: Thank you.

1 POLLOCK SITE PLAN

2 MR. POLLOCK: Thank you.

3 CHAIRMAN BRAND: Mr. Clarke.

4 MR. CLARKE: Yes. I have been  
5 asking -- I'm on board with the  
6 project. I'm always concerned about  
7 municipal parking. I have asked Mr.  
8 Pollock and the Town Board to get  
9 together and try to come forward with  
10 a legal document that gives long-  
11 term municipal parking for, you know,  
12 the Hamlet of Milton. It's going to  
13 be a disaster if these eight shops  
14 are successful. With the existing  
15 businesses that are there, with the  
16 post office, I don't know how you're  
17 going to drive down this thing unless  
18 we have a long-term legal document  
19 that says we have dedicated parking.  
20 I haven't seen any movement on this.  
21 Is there any movement on that?

22 MR. MEDENBACH: In the  
23 resolution, the draft resolution it  
24 says he has to provide proof of  
25 permanent use of the parking.

1 POLLOCK SITE PLAN

2 MR. CLARKE: For his apartments?

3 MR. MEDENBACH: Yes.

4 MR. CLARKE: I am asking -- he  
5 has businesses there. Where are the  
6 people going to park that are going  
7 to go to the businesses? That's my  
8 concern.

9 MR. MEDENBACH: I believe --  
10 well, I believe all of Bob's  
11 businesses have their own parking.  
12 There's another parking lot behind --

13 MR. CLARKE: Eight spots.

14 MR. MEDENBACH: So you're  
15 talking about just general parking  
16 for the public use?

17 MR. CLARKE: Yes, I am. This  
18 is what I'm asking for, because in  
19 the long term you're not going to be  
20 able to drive in this thing if this  
21 is successful. I know Mr. Pollock  
22 has a lot of parking areas. I'm just  
23 asking for me to give approval to  
24 this thing, I want to see an  
25 agreement between the Town and Mr.



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

2               Pollock for long-term municipal  
3               parking on some of the areas that he  
4               owns.

5               MR. POLLOCK: I thought we --

6               MS. LANZETTA: I understand  
7               Steve's concerns. There's been a lot  
8               of concerns brought up by the public  
9               about parking in Milton. I don't  
10              think it's fair to put one applicant  
11              in charge of working with the Town to  
12              do that. I think if the Town Board  
13              was to ask all of the businesses in  
14              the Milton hamlet area to come  
15              together to try to come up with some  
16              additional ideas for parking, that  
17              would be a fair approach than  
18              penalizing an applicant who is doing,  
19              you know, what is required of them  
20              under our present Town Code.

21              MR. GAROFALO: And is in fact  
22              making other improvements, such as  
23              providing accessible spots on the  
24              street and the loading which will be  
25              available to the public and will

1 POLLOCK SITE PLAN

2 hopefully, to a certain degree,  
3 settle some of those issues which may  
4 arise in that particular area. But  
5 they certainly have provided adequate  
6 parking for the uses that are  
7 proposed. Thank you.

8 CHAIRMAN BRAND: Any additional  
9 comments from the Board?

10 (No response.)

11 CHAIRMAN BRAND: That being  
12 said, you have before you the  
13 combined application of 39 Main  
14 Street, Milton, LLC and James D. Kent  
15 Junior for a lot line revision at 39  
16 Main Street in Milton for a site plan  
17 approval of the Town of Marlborough  
18 Planning Board for a SEQRA negative  
19 declaration and notice of  
20 determination of nonsignificance.

21 Jen, would you poll the Board.

22 MS. FLYNN: Chairman Brand?

23 CHAIRMAN BRAND: Yes.

24 MS. FLYNN: Member Clarke?

25 MR. CLARKE: No.

1 POLLOCK SITE PLAN

2 MS. FLYNN: Member Garofalo?

3 MR. GAROFALO: Yes.

4 MS. FLYNN: Member Jennison?

5 MR. JENNISON: Yes.

6 MS. FLYNN: Member Lanzetta?

7 MS. LANZETTA: Yes.

8 MS. FLYNN: Member Lofaro?

9 MR. LOFARO: Yes.

10 MS. FLYNN: Member Troncillito?

11 MR. TRONCILLITO: Yes.

12 CHAIRMAN BRAND: You also have  
13 before you the combined application  
14 of 39 Main Street, LLC and James D.  
15 Kent Junior for a lot line revision  
16 at 39 Main Street, LLC for a site  
17 plan approval from the Town of  
18 Marlborough Planning Board for a  
19 conditional approval resolution of  
20 the site plan and lot line revision.

21 Jen, would you poll the Board.

22 MS. FLYNN: Chairman Brand?

23 CHAIRMAN BRAND: Yes.

24 MS. FLYNN: Member Clarke?

25 MR. CLARKE: No.

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

2                   MS. FLYNN:   Member Garofalo?

3                   MR. GAROFALO:   Yes.

4                   MS. FLYNN:   Member Jennison?

5                   MR. JENNISON:   Yes.

6                   MS. FLYNN:   Member Lanzetta?

7                   MS. LANZETTA:   Yes.

8                   MS. FLYNN:   Member Lofaro?

9                   MR. LOFARO:   Yes.

10                  MS. FLYNN:   Member Troncillito?

11                  MR. TRONCILLITO:   Yes.

12                  CHAIRMAN BRAND:   So moved.

13                  Pat, Jeff, do we have anything  
14                  else for this?  No; right?

15                  MR. BATTISTONI:   No.  I'll  
16                  clean up that one typo and get a  
17                  clean copy to the Planning secretary.

18                  MR. MEDENBACH:   Thank you.

19                  MR. POLLOCK:   Thank you.

20

21                  (Time noted:   8:47 p.m.)

22

23

24

25

POLLOCK SITE PLAN

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 12th day of April 2022.

*Michelle Conero*

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MICHELLE CONERO

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

BAYSIDE  
  
Project No. 19-3011  
18 Birdsall Avenue, Marlboro  
Section 109.1; Block 4; Lot 29  
----- X

EXTENSION - SITE PLAN

Date: April 4, 2022  
Time: 8:47 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

BOARD MEMBERS: CHRIS BRAND, Chairman  
CINDY LANZETTA  
JOSEPH LOFARO  
JAMES GAROFALO  
STEVE CLARKE  
ROBERT TRONCILLITO  
STEPHEN JENNISON  
  
ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: ERIC BAXTER &  
DANIEL RIEGER

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

1       B A Y S I D E

2                   CHAIRMAN BRAND:  Next up on the  
3                   agenda we have Bayside, 18 Birdsall  
4                   Avenue, Marlboro for an extension of  
5                   their site plan.

6                   MR. BAXTER:  How are you?  Eric  
7                   Baxter, developer.

8                   MR. RIEGER:  Dan Rieger, developer.

9                   MR. BAXTER:  Thanks for having  
10                  us tonight.  We're here to extend the  
11                  building permit which was granted in  
12                  May of last year.

13                  We consulted with the town  
14                  engineer and the town attorney and  
15                  these are the proper steps that are  
16                  needed.  We need to come in front of  
17                  the Planning Board to extend -- for  
18                  two one-year extensions of the  
19                  building permit.

20                  CHAIRMAN BRAND:  Thank you.

21                  Pat, do you want to review your  
22                  comments?

23                  MR. HINES:  My comments are  
24                  only that I cited the section of the  
25                  code regarding site plan timeframes.

1       B A Y S I D E

2           The initial timeframe is a building  
3           permit timeframe and then there's a  
4           construction phase timeframe. Their  
5           building permit timeframe will lapse  
6           in May I believe. They are requesting  
7           two one-year extensions. The Board  
8           can address those at the same time or  
9           one year at a time. I believe the  
10          applicants are requesting that two-  
11          year to give them time to complete  
12          their project.

13                I do know that these applicants  
14                are not the original people that got  
15                the approval but they are the current  
16                developers for the project.

17                I would suggest that we  
18                identify the exact timeframes in the  
19                resolution to be prepared for the  
20                Board to adopt so we have the  
21                chronology of where we're at so that  
22                can follow along.

23                       MR. GAROFALO: I would like to  
24                       point out that it's, I think, the  
25                       Building Department that does the



1       B A Y S I D E

2               building permits and we do the -- we  
3               extend the site plan approval, not  
4               the building permits I think is the  
5               way it works.

6               MR. HINES:  It's a construction  
7               timeframe in your site plan approval.

8               MR. GAROFALO:  Right.  But it's  
9               not the building permit.

10              MR. HINES:  The building permit  
11              is an initial section in that approval  
12              and then there's a construction  
13              timeframe.  They're in that building  
14              permit phase right now where they  
15              have received their building permit I  
16              believe.

17              MR. BAXTER:  Correct.

18              MR. HINES:  Or near receiving  
19              your building permit.

20              MR. BAXTER:  We received it May  
21              -- well, the previous developer  
22              received it May of 2021.  We're  
23              taking over the project to actually  
24              complete it.

25              CHAIRMAN BRAND:  Thank you.

1       B A Y S I D E

2                   Anything else from the Board?

3           MR. GAROFALO:  I guess there's  
4           a question as to when did we actually  
5           originally approve this?

6           CHAIRMAN BRAND:  Do we have  
7           that date?

8           MS. FLYNN:  I do not.  I didn't  
9           bring the folder.

10          MR. BATTISTONI:  My suggestion  
11          would be that I prepare an approval  
12          resolution for the next meeting and  
13          bring it.  It would recite all of  
14          those dates.  I think there was an  
15          approval, and then extensions, then a  
16          re-approval extension.  There's quite  
17          a bit of background here.  All of  
18          those dates would be recited in the  
19          resolution for you.

20          MR. CLARKE:  I think there was  
21          more than one building.  There was  
22          the commercial building that got a  
23          different date than the apartments on  
24          top.

25          MR. BATTISTONI:  I think there

1       B A Y S I D E

2               was a subdivision approval and a site  
3               plan approval. It was very complicated.

4               MR. HINES: One of the situations  
5               we have here, and I have discussed it  
6               with the Riegers, is that they are not  
7               currently in a position where they're  
8               purchasing the commercial portion of  
9               the project. There was a subdivision  
10              that involved the multi-family units  
11              and the commercial units. They're  
12              working out issues regarding that.  
13              Certain improvements are on the  
14              commercial lot, so we've been tracking  
15              what was required there. Originally  
16              the project was -- while it was a  
17              subdivision commercial and  
18              multi-family, I don't know that we  
19              envisioned this phased construction.  
20              There are issues that need to be  
21              resolved moving forward as one lot is  
22              sold and the other is not. I began  
23              those conversations with the  
24              applicant's representative. Things  
25              like drainage and stormwater

1       B A Y S I D E

2           improvements are located across the  
3           lots.  There's necessary grading --  
4           cross grading across the lots that  
5           has to occur, what the commercial  
6           lot looks like if it's not developed  
7           in conjunction with the multi-family.  
8           So those are issues that we'll be  
9           working through as well.  There may  
10          be some site plan approvals necessary  
11          in the future to resolve those issues.

12                 CHAIRMAN BRAND:  When this was  
13           originally approved, the site plan  
14           and the lot line, we kind of looked  
15           at it like we did with Pollock, 39  
16           Main Street.  The site plan was  
17           inclusive of both the commercial and  
18           the residential portion.  So if they  
19           are not doing the commercial portion  
20           of this project, isn't that not a  
21           continuation of the original site  
22           plan?

23                 MR. HINES:  That very well  
24           could be, or there may be a need to  
25           amend that.  Right now we're not in

1       B A Y S I D E

2               that position. They haven't  
3               accomplished that yet. I've had  
4               discussions with them that certain  
5               components of this project are  
6               interconnected on that site. They  
7               may be back before you for amended  
8               site plan to clean that up. They  
9               have two years to resolve it.  
10              Someone else could build that within  
11              two years. It's out there. It's an  
12              issue.

13                      CHAIRMAN BRAND: It's definitely  
14              an issue.

15                      MR. GAROFALO: There's certainly  
16              limits to the extensions that the  
17              Planning Board is allowed to provide  
18              as well as the Building Department.  
19              I think that's why it's important to  
20              take a look at when the initial  
21              approval was given, because the  
22              extensions are based on the initial  
23              approval date.

24                      MR. HINES: I agree. There  
25              were some re-approvals.

1       B A Y S I D E

2                   MR. BATTISTONI: I think the  
3                   initial approval date for the site  
4                   plan was -- I'm sorry, I'm looking at  
5                   the plat actually -- June 4th of 2018.

6                   MR. HINES: That was the  
7                   subdivision.

8                   MR. BATTISTONI: That was the  
9                   subdivision. There were re-approvals  
10                  in addition to the extension. So the  
11                  resolution I prepare will recite that  
12                  entire history so you'll have it all  
13                  there.

14                  CHAIRMAN BRAND: To clarify;  
15                  Mr. Baxter, your intention is to not  
16                  build the commercial portion of the  
17                  site plan, it would just be the  
18                  residential portion?

19                  MR. BAXTER: Yes. At the  
20                  moment, due to market conditions,  
21                  commercial isn't really viable right  
22                  now. It's our intent to develop the  
23                  residential portion of the property.

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

1       B A Y S I D E

2                   MR. TRONCILLITO: I just have  
3       one question. That land was cleared.  
4       Are you going to at least clean that  
5       up and make it presentable if you're  
6       not going to build on it?

7                   MR. BAXTER: Yes. It will get  
8       cleaned up. As the town engineer  
9       mentioned, there is drainage that we  
10      have to cut through that site. We do  
11      have to do work on that site, and  
12      that's why it was cleared.

13                  MR. TRONCILLITO: Okay.

14                  MR. BAXTER: So once we close  
15      on the property, we'll do our erosion  
16      control and SWPPP and that's when  
17      we'll be allowed to clean what's been  
18      done on the property. We needed to  
19      drop the trees before March 31st in  
20      order to get working this year.

21                  MR. TRONCILLITO: Okay. Thank  
22      you.

23                  MR. BAXTER: Thank you.

24                  CHAIRMAN BRAND: Jeff, just as  
25      a heads up, I'm personally going to

1       B A Y S I D E

2               want some type of clarification on  
3               the initial site plan approval with  
4               the commercial aspect as a portion of  
5               what was approved versus an extension  
6               on that not being included and how  
7               that plays out. In my mind it's not  
8               the same site plan.

9               MR. BATTISTONI: I don't think  
10              we'd be making that change now. I  
11              think the extension would be granted  
12              for the entire project. If they  
13              decide not to build something and  
14              want to make a modification later on  
15              for that, that would be a subsequent  
16              application.

17             CHAIRMAN BRAND: So the site  
18             plan would still include residential  
19             whether or not they build it?

20             MR. BATTISTONI: That's what  
21             I'm thinking, yes.

22             CHAIRMAN BRAND: All right.  
23             Any other questions or comments?

24             MR. TRONCILLITO: Do we vote on  
25             this?



1       B A Y S I D E

2                   CHAIRMAN BRAND:  He's going to  
3       prepare a more detailed resolution  
4       for the next meeting.

5                   MR. TRONCILLITO:  Okay.

6                   MR. BAXTER:  Sorry to  
7       interrupt.  We're working towards a  
8       closing with our financial lender.  
9       Obviously this would need to be in  
10      place because the bank will need to  
11      feel comfortable closing on the land  
12      with this in place.  Is there any way  
13      to have a resolution tonight or --

14                  CHAIRMAN BRAND:  No.

15                  MR. BATTISTONI:  No.  I think  
16      this is too complicated for a verbal.  
17      You might -- no.  It's too  
18      complicated for that.

19                  MR. BAXTER:  Okay.  Understood.  
20      Thank you.

21                  MR. HINES:  The Board meets  
22      twice a month.

23                  MR. BATTISTONI:  April 18th.

24                  MR. BAXTER:  Great.  Sorry.  I  
25      thought it was once a month.  That

1       B A Y S I D E

2               helps.   Thank you.

3                       CHAIRMAN BRAND:   Jeff will have  
4               that for the April 18th meeting.  
5               Correct?

6                       MR. BATTISTONI:   Yes.   Correct.

7                       MR. BAXTER:   Thank you. Have a  
8               good night.

9

10                      (Time noted:   8:55 p.m.)

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 12th day of April 2022.

Michelle Conero

---

MICHELLE CONERO

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

- - - - - X  
In the Matter of

DANE DeSANTIS

Project No. 22-6005  
226 Highland Avenue, Marlboro  
Section 108.12; Block 1; Lot 48

- - - - - X

SKETCH - SUBDIVISION

Date: April 4, 2022  
Time: 8:55 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

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

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

APPLICANT'S REPRESENTATIVE: DARREN STRIDIRON

- - - - - X

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

1       D A N E   D e S A N T I S

2                   CHAIRMAN BRAND:   Next on the  
3                   agenda we have Dane DeSantis for a  
4                   sketch of a subdivision at 226  
5                   Highland Avenue in Marlboro.

6                   I'd just like to thank you for  
7                   the nice red folder.

8                   MR. STRIDIRON:   I wanted to be  
9                   prepared here.

10                  CHAIRMAN BRAND:   Perhaps you  
11                  could provide us with just an  
12                  overview of what we're doing here and  
13                  what's proposed.

14                  MR. DeSANTIS:    So basically my  
15                  father and my family have lived on  
16                  that section of Highland Avenue since  
17                  the beginning of the 1900s.   I'm sure  
18                  some of you might know them.   Anyway,  
19                  it was originally one piece of land.  
20                  I think my grandfather created lots  
21                  for my aunts and uncles, my father.  
22                  The lot that my father's currently  
23                  on, him and my mother, just has extra  
24                  unused property that my long-term  
25                  girlfriend and I are trying to build

1 D A N E D e S A N T I S

2 a one-family single-family home on.

3 CHAIRMAN BRAND: Thank you.

4 Did you have something?

5 MR. STRIDIIRON: It's a two-lot  
6 subdivision in an R Zone. We meet  
7 all of the requirements in the zoning  
8 other than the lot width which is on  
9 lot 1. The lot width is 75 feet  
10 required and we have 52 feet.

11 CHAIRMAN BRAND: That's a  
12 perfect site plan for Pat and your  
13 comments.

14 MR. HINES: Comment number 1 is  
15 they don't meet lot width. They're  
16 going to need a referral to the  
17 Zoning Board of Appeals. They're  
18 requesting a variance for proposed  
19 lot 1. As Mr. Stridiron just said,  
20 there's 75 feet required where 52.1  
21 feet is proposed. That's the amount  
22 frontage that they are providing.

23 I also have a comment that your  
24 side yard setbacks are 10 feet for  
25 one and both are 25. This map

1 D A N E D e S A N T I S

2 currently shows that one side yard.  
3 They're both shown at 10. One needs  
4 to be shown at 15.

5 MR. STRIDIRON: Combined 25.

6 MR. HINES: The building  
7 envelop needs to depict that,  
8 otherwise someone could come in and  
9 say I'm in the building envelop when  
10 in fact you wouldn't be. So that  
11 needs to be cleaned up.

12 If you prevail at the Zoning  
13 Board, we're recommending that a  
14 grading plan be prepared. The  
15 topography that you've shown here has  
16 two swales that kind of come together  
17 at the house location, just on that  
18 grading. I want to make sure you  
19 don't cause any ponding for  
20 yourselves or your neighbors. So a  
21 grading plan and a finished floor  
22 elevation for that house should be  
23 provided.

24 You're proposing a rather wide  
25 driveway that isn't typical for that

1 D A N E D e S A N T I S

2 area. The driveway is about 30 feet  
3 in width where it says proposed  
4 parking area and extends out into the  
5 street. I don't know if that's your  
6 intention or --

7 MR. DeSANTIS: Just to the  
8 finished road area. Just to the  
9 finished road.

10 MR. HINES: You're proposing  
11 over a 30 foot wide driveway.

12 MR. DeSANTIS: We can narrow  
13 it.

14 MR. HINES: We would suggest  
15 that be narrowed down.

16 MR. STRIDIRON: I wasn't sure  
17 the amount of detail you wanted on  
18 this. I didn't know if it had to go  
19 to a plot plan for building permit.  
20 I was just doing general -- this is  
21 what we want to do in general. I  
22 didn't know if it had to go for site  
23 plan or plot plan for a building  
24 permit.

25 MR. HINES: We will need that



1 D A N E D e S A N T I S

2 detail.

3 MR. STRIDIRON: Okay.

4 MR. HINES: The finished floor  
5 elevation for the sanitary sewer  
6 should be depicted as well as the  
7 depth to sewer line to make sure you  
8 can meet it.

9 We are suggesting that a note  
10 be added to the plans that the  
11 building should be staked out prior  
12 to issuance of the building permit.  
13 Because of the location of the  
14 building at the setback lines, to  
15 avoid any issues where it's at the 10  
16 foot setback and they build a  
17 building at 9'9" and it becomes an  
18 issue. So that note will help the  
19 Building Department when they come in  
20 for a permit.

21 Then the short form wasn't  
22 filled out on the DEC's website, it  
23 was hand done. The DEC's website  
24 will populate certain areas of that.

25 MR. STRIDIRON: I submitted --

1 D A N E D e S A N T I S

2 MS. FLYNN: He did do it. He  
3 did hand it in later.

4 MR. HINES: Okay. I didn't have  
5 that. If it's in, that's fine.

6 MR. STRIDIRON: That was  
7 through the EAF Mapper.

8 MR. HINES: The one I have is  
9 hand done.

10 CHAIRMAN BRAND: Jen, number 6  
11 is complete?

12 MR. HINES: Just to show you  
13 I'm not crazy.

14 MR. STRIDIRON: I remember that.

15 MR. HINES: The only action the  
16 Board can take tonight would be the  
17 referral to the ZBA for that lot  
18 width, 75 feet required, 52.1 is  
19 proposed.

20 CHAIRMAN BRAND: Questions or  
21 comments from the Board?

22 MR. GAROFALO: In the revised  
23 EAF that was done online, does that  
24 have the additional information at  
25 the end or was that restricted

1       D A N E   D e S A N T I S

2               because of the pop-up?

3               MR. HINES:   I don't have that.

4               I can't answer that, James.

5               MR. STRIDIRON:   We have a  
6               printout of the correct one if you'd  
7               like to see.

8               MR. GAROFALO:   Thank you.

9               CHAIRMAN BRAND:   Any other  
10              questions or comments from the Board?

11              MS. LANZETTA:   I just want to  
12              remind the Board that we have  
13              received a letter from the code  
14              enforcement officer saying he's no  
15              longer looking at these projects and  
16              that it would be our responsibility  
17              to review these for area variances.  
18              I want to let you know that under  
19              134-24, waiver of requirements and  
20              variances in our Town Code, that it  
21              says that we are allowed to do that  
22              without the necessity of a decision  
23              or a determination by the official  
24              charged with the enforcement of the  
25              zoning regulations.   It does say that

1 D A N E D e S A N T I S

2 in reviewing such application, the  
3 Zoning Board of Appeals shall request  
4 the Planning Board to provide a  
5 written recommendation. So I would  
6 suggest that the Board make -- I  
7 don't know how we handled this in the  
8 past. I think we need to be sure  
9 that we forward a written recommendation  
10 to the Zoning Board of Appeals so  
11 they know that we are the agency that  
12 is asking them to review this.

13 MR. HINES: I also received  
14 that letter. That's why I did a more  
15 detailed review of the bulk table  
16 requirements.

17 MR. LOFARO: Excuse me, Cindy.  
18 Is it a recommendation to review or a  
19 recommendation to --

20 MS. LANZETTA: That they have  
21 to review it for an area variance  
22 before we can entertain the application.

23 MR. HINES: He'll speak to Jeff  
24 and either my office or Jeff's office  
25 will write a referral for the Board.

1 D A N E D e S A N T I S

2 We'll send that.

3 MS. FLYNN: To?

4 MR. HINES: To the ZBA.

5 MS. FLYNN: I have a little  
6 thing that I send over why you're  
7 recommending.

8 MR. HINES: Jen said she's  
9 going to do that referral.

10 MS. FLYNN: I just tell them  
11 we're recommending that for setbacks  
12 and give her a letter, and then she  
13 gives me a letter back with them  
14 signed.

15 CHAIRMAN BRAND: I'm sorry.  
16 Can you repeat that, Jen?

17 MS. FLYNN: When we refer the  
18 applicants over to the ZBA I will  
19 give Penny a letter stating their  
20 name, the SBL number, that we sent  
21 them over there so she has a letter  
22 from us stating that we sent them. I  
23 usually copy Pat's comments on them.

24 MR. HINES: Jen has a process  
25 is what she's saying.

1 D A N E D e S A N T I S

2 MS. LANZETTA: Great. Thank  
3 you.

4 MR. GAROFALO: On the revised  
5 copy, on page 1, item 2, does it  
6 include the ZBA as one of the  
7 government agencies?

8 MR. HINES: Once again, I  
9 haven't seen that yet.

10 MR. GAROFALO: Item 2 on page  
11 1.

12 MR. STRIDIRON: I just put the  
13 Planning Board on there at that  
14 point.

15 MR. GAROFALO: Okay. Because  
16 you have to go to the ZBA. I think  
17 the ZBA should be on there also.

18 MR. STRIDIRON: Sure. We also  
19 filled out an application for the  
20 Zoning Board because we foresaw this  
21 being an issue. We have already  
22 started that process. We have  
23 handled -- given them what we thought  
24 would be some sort of information  
25 they could have so that we kind of do

1 D A N E D e S A N T I S

2 this simultaneously, in our hopes.

3 CHAIRMAN BRAND: So Jen, just  
4 to clarify, you will notify the  
5 Zoning Board of Appeals of the  
6 referral with Pat's comments?

7 MS. FLYNN: Yes.

8 CHAIRMAN BRAND: And then for  
9 my own clarification, they'll wait  
10 for the determination before they  
11 reappear to us or are they running  
12 this concurrently?

13 MR. HINES: You can't make any  
14 decision until they do.

15 CHAIRMAN BRAND: We'll wait  
16 until they decide.

17 MR. GAROFALO: Could you also  
18 provide to us the e-mail addresses of  
19 the rest of your team? It doesn't  
20 have to be on the document itself.  
21 Just provide those so our consultants  
22 can have them in case they have any  
23 questions.

24 MR. HINES: We know where to  
25 find Darren.

1 D A N E D e S A N T I S

2 MR. STRIDIRON: I can't hide.

3 CHAIRMAN BRAND: We'll wait to  
4 hear from the Zoning Board of Appeals  
5 before we can proceed.

6 MR. DeSANTIS: Thank you very  
7 much.

8 MR. STRIDIRON: Thank you.

9 CHAIRMAN BRAND: Just to cross  
10 all the Ts, nothing for you guys, I  
11 would like a motion to refer this to  
12 the ZBA.

13 MR. CLARKE: I'll make a motion  
14 that we refer this for their review  
15 back to us.

16 CHAIRMAN BRAND: Steve. Is  
17 there a second?

18 MR. JENNISON: Second.

19 CHAIRMAN BRAND: Any discussion?

20 (No response.)

21 CHAIRMAN BRAND: Any objection?

22 (No response.)

23 CHAIRMAN BRAND: Okay. We're  
24 official.

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



1 D A N E D e S A N T I S

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 12th day of April 2022.

17  
18  
19 *Michelle Conero*

20 \_\_\_\_\_  
MICHELLE CONERO  
21  
22  
23  
24  
25

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

- - - - - X  
In the Matter of

DAVE & JOLEE DUBOIS

Project No. 22-6006  
228 Mahoney Road, Milton  
Section 95.4; Block 2; Lot 15

- - - - - X

SKETCH - SUBDIVISION

Date: April 4, 2022  
Time: 9:05 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

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

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

APPLICANT'S REPRESENTATIVE: DAVE DuBOIS &  
CARNEY RHINEVAULT

- - - - - X

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

1       DAVID & JOLEE DUBOIS

2               CHAIRMAN BRAND: Finally DuBois,  
3       sketch of a subdivision at 228  
4       Mahoney Road in Milton. Sorry to keep  
5       you waiting.

6               Do you want to give us a brief  
7       overview of what it is you have  
8       proposed?

9               MR. DUBOIS: There's a 1.3 acre  
10      piece that's already kind of  
11      subdivided off the farm, separated by  
12      a road. We want to build a house on  
13      the other side. Since there's  
14      already a dwelling on the property,  
15      we're going to cut it in half so that  
16      we can put our house up on the hill.

17              CHAIRMAN BRAND: Great. Thanks.  
18      Pat.

19              MR. HINES: I'm sorry. You're  
20      proposing to build a house on the 1.2  
21      acre parcel?

22              MR. DUBOIS: I'm going to build  
23      my house up on the hill, up on the --

24              MR. HINES: By creating the 1.2  
25      acre parcel, we need to have that

1       DAVID & JOLEE DUBOIS

2               engineered.

3               MR. DUBOIS:  It is.  We're just  
4               waiting for the paperwork to come  
5               back.  It's all been Board of Health  
6               approved.

7               MR. HINES:  That is less than a  
8               5 acre lot so that needs to be proven  
9               out.  We'll need well and septic, all  
10              the development details.

11              MR. DUBOIS:  Paul Mele, I don't  
12              know if you know him.

13              MR. HINES:  Mr. Mele will have  
14              a copy.  I do know him.  I can share  
15              with you a copy.  I don't have your  
16              information.  Here's a copy of our  
17              comments.  They're fairly detailed.  He  
18              should have gotten one today from my  
19              office, although I see that we really  
20              butchered his last name because I  
21              wasn't in my office until later  
22              today.

23              We'll need a bulk table added  
24              to the plans, and Mr. Mele can  
25              probably address those.  It's a zoning

1       DAVID & JOLEE DUBOIS

2               compliance table for each of the  
3               lots, including the smaller lot. It  
4               will say what's allowed in that zone  
5               and how you're meeting that.

6               The 2-acre parcel -- the 1.2  
7               acre parcel, the smaller parcel, will  
8               need the driveway, well, septic,  
9               County Health Department and approval  
10              from the highway superintendent for  
11              the driveways.

12             Parcel B has an existing  
13             dwelling and garage. That must be  
14             included in the bulk table that is  
15             proposed.

16             The setbacks and all that  
17             should be called out.

18             There's a farm road and it's  
19             depicted on plan there. It kind of  
20             runs between the parcels. Oftentimes  
21             those have rights, easements and  
22             such. If the surveyor can show us  
23             that, or a note that they don't, that  
24             there are no rights across there. If  
25             it extends to other farms as we've

1       DAVID & JOLEE DUBOIS

2           seen in Town, many of them do -- I  
3           see you're shaking your head. We'll  
4           have to have the surveyor weigh in on  
5           the fact there is no other person or  
6           entity that has rights.

7           MR. DUBOIS: There's no rights.

8           MR. HINES: Okay. I did  
9           receive the agricultural data  
10          statement filled out tonight.

11          The site plan checklist had  
12          some items that are checked but are  
13          not here. We need those.

14          The adjoining parcels, you're  
15          supposed to have the acreage  
16          depicted. These are all things your  
17          surveyor can put in there. It was  
18          checked that they're there and  
19          they're not.

20          We will need a metes and bounds  
21          description for the new lines that  
22          are shown in there. They're not all  
23          there. It says to be provided in the  
24          future, although a lot of them are  
25          there.

1       DAVID & JOLEE DUBOIS

2               The lots all extend into the  
3       center line of the Town roadway, so  
4       the Town will require a dedication  
5       strip 50 feet from the center line on  
6       all the lots. The survey will have  
7       to be updated showing offers of  
8       gratuitous dedication and succession  
9       of those lots. That will change your  
10      lot lines or lot areas on those lots.  
11      Your surveyor will understand that if  
12      you don't.

13             They don't show topography on  
14      the whole site. I'm not suggesting  
15      they should. I think the Board  
16      should entertain a waiver request  
17      from the applicant to not survey the  
18      balance parcel. They have shown  
19      detailed surveys of the small lot  
20      that's kind of the natural  
21      subdivision lot.

22             I don't know what the intent of  
23      detail A is, unless that's where  
24      you're proposing to put the house on  
25      the other lot. There's a markup on

1       DAVID & JOLEE DUBOIS

2               that corner there. There's a small  
3               piece of topography shown on lot A as  
4               a blowup. That may be where you're  
5               thinking of putting a house. I don't  
6               know why it's there. That should be  
7               further clarified.

8               CHAIRMAN BRAND: Can we stop  
9               there? Is the Board in agreement  
10              that we can waive the topography for  
11              this?

12             MR. CLARKE: Yes.

13             MR. TRONCILLITO: Yes.

14             MS. LANZETTA: Yes.

15             MR. GAROFALO: Yes.

16             MR. JENNISON: Ayes.

17             MR. LOFARO: Yes.

18             MR. CLARKE: It doesn't have  
19             very steep topography. The other  
20             thing I would make sure you tell Paul  
21             Mele is that there is an active  
22             orchard around this 1.3 acres that  
23             has different setbacks.

24             MR. HINES: Which is my comment  
25             15.



1       DAVID & JOLEE DUBOIS

2               The next is sight distance at  
3       the driveway should be depicted. I  
4       sent this to the wrong County as I  
5       was dictating. Submission to Ulster  
6       County Planning will be required as  
7       the project is located co-terminus  
8       with the Town of Lloyd/Town of  
9       Marlborough line on that northern  
10      portion.

11             And then my comment 15 which  
12      Mr. Clarke just referenced, anywhere  
13      where a residential subdivision abuts  
14      an active farm, the setbacks are  
15      increased to 75 feet. So the  
16      building envelop on the lots will be  
17      75 feet on all the side and rear yard  
18      setbacks. The rear yard is already  
19      75 feet. Your side yards will be  
20      increased to that 75 feet, and that's  
21      to protect the existing farmers from  
22      the new residents.

23             MR. DUBOIS: So in that case it  
24      would be the back of that lot?

25             MR. CLARKE: It would be the

1       DAVID & JOLEE DUBOIS

2               1.3 acre lot.

3               MR. HINES:   The 1.3.

4               MR. DUBOIS:   The line there,  
5       that's what we're talking about?

6               MR. CLARKE:   The setbacks  
7       increase.

8               MR. HINES:   Anything touching  
9       All State Apple or Stockdale will be  
10      at a 75 foot setback.

11              MR. CLARKE:   We have a similar  
12      lot on Keats Lane.   It never came  
13      back because it was unbuildable.

14              MR. HINES:   I gave Mr. Mele the  
15      section of the code in my item 15  
16      that I gave you tonight.   He can read  
17      into that.   It's a little hidden  
18      section of the code.   Actually  
19      underneath the bulk table is where  
20      it's referred to.   If he looks at  
21      that.   One of those lines would be a  
22      rear yard anyway on the small lot.  
23      The second line, which normally would  
24      be a side yard, would have a smaller  
25      setback because the active agricultural

1       DAVID & JOLEE DUBOIS

2               would become increased.

3               MR. RHINEVAULT: I'm Carney  
4       Rhinevault, the man who drew the map.  
5       The agricultural setback is 75 feet,  
6       you said?

7               MR. HINES: Correct.

8               MR. RHINEVAULT: Is that just  
9       for the house or does that include  
10      the septic system, because --

11              MR. HINES: It does not include  
12      the --

13              MR. RHINEVAULT: -- I really  
14      wanted the septic system down in the  
15      lower right-hand corner.

16              MR. HINES: It doesn't include  
17      the septic system. It's the building  
18      envelop for the house.

19              MR. RHINEVAULT: Just the house?

20              MR. HINES: If you read that  
21      section of the code. There are other  
22      requirements in that code for  
23      planting, buffers, berms and such.  
24      You really need to look into that  
25      Section 155-52, agricultural

1       DAVID & JOLEE DUBOIS

2               setbacks. It will have those. It's  
3               only if it's active agriculture. I  
4               just saw that it's All State Apple,  
5               Inc. That leads me to believe that  
6               might be an orchard.

7               MR. DUBOIS: It is.

8               MR. HINES: So that's where  
9               that kicks in. You'll probably have  
10              75 foot rear and side yards on that  
11              smaller lot.

12              CHAIRMAN BRAND: So before I  
13              entertain comments or questions,  
14              Member Clarke made a motion to waive  
15              the topography depiction. Is there a  
16              second?

17              MR. TRONCILLITO: I'll second  
18              that?

19              CHAIRMAN BRAND: Any discussion?  
20              (No response.)

21              CHAIRMAN BRAND: Any objection?  
22              (No response.)

23              CHAIRMAN BRAND: So moved.

24              Comments or questions from the  
25              Board?

1       DAVID & JOLEE DUBOIS

2               MR. GAROFALO: I just have one  
3       quick comment. That is, on the short  
4       environmental assessment form, if you  
5       do that on the website and you have  
6       the pop-ups blocked, it blocks one of  
7       the pages that you don't see which  
8       fills in some of the information. So  
9       it needs to be run and made sure that  
10      the pop-ups are not being blocked,  
11      because that would prevent you from  
12      printing out that extra page. Thank  
13      you.

14             CHAIRMAN BRAND: Cindy.

15             MS. LANZETTA: I just want to  
16      point out that the Ethics Code  
17      section has not been totally filled  
18      out. Even though you might not have  
19      any interest, it still needs to be  
20      signed and notarized.

21             CHAIRMAN BRAND: Any other  
22      comments or questions from the Board?

23                     (No response.)

24             CHAIRMAN BRAND: So you'll talk  
25      to your representative and have Pat's

1       DAVID & JOLEE DUBOIS

2               comments worked out and then reappear.

3               MR. DUBOIS:   Yes.

4               MR. CLARKE:   I would entertain  
5               one other thing you might want to do.  
6               Because that was an agricultural, it  
7               was an orchard site in the 1930s and  
8               `40s and `50s, have the soil tested.  
9               You'll find your led arsenic level.  
10              There is a mitigation process for  
11              that.   Before you get a housing lot  
12              you may want to look at that and see  
13              what the mitigation is and go through  
14              that process.

15              MR. HINES:   The Health  
16              Department normally requires that.

17              CHAIRMAN BRAND:  Thank you.    I  
18              think you guys are all set.

19

20                       (Time noted:  9:12 p.m.)

21

22

23

24

25

1        D A V I D   &   J O L E E   D U B O I S

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 12th day of April 2022.  
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21                    *Michelle Conero*

22                    \_\_\_\_\_  
23                    MICHELLE CONERO  
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STATE OF NEW YORK : COUNTY OF ULSTER  
TOWN OF MARLBOROUGH PLANNING BOARD  
----- X  
In the Matter of

PLANNING BOARD APPLICATION & PROCESS  
DISCUSSION

----- X

BOARD BUSINESS

Date: April 4, 2022  
Time: 9:12 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

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

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

----- X

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



1       B O A R D   B U S I N E S S

2                   CHAIRMAN BRAND:  Cindy, the  
3                   floor is yours.

4                   MS. LANZETTA:  Well, I know we  
5                   were going to talk about lot line  
6                   applications, and I'm assuming James  
7                   has something to do with that, but I  
8                   wanted to talk about the idea of  
9                   having a complete application.  I  
10                  know we kind of touched on this when  
11                  Verizon came in.  I think it's real  
12                  important now, especially with not --  
13                  what seems to be happening sometimes  
14                  with our site plan review is that  
15                  people will come before us with an  
16                  application and then they disappear.  
17                  In the meantime they might well be  
18                  running a business.  It's hard for  
19                  the building inspector, when he gets  
20                  a complaint, to go out and to handle  
21                  this, especially if they have to go  
22                  before a judge, because very often  
23                  the so-called applicants will say  
24                  well, we have an application before  
25                  the Board, and so the judge is

1       B O A R D   B U S I N E S S

2               inclined to give the people a longer  
3               amount of time and then a longer  
4               amount of time.

5               MR. HINES:  It happens in every  
6               town I represent.

7               MS. LANZETTA:  Well, you know,  
8               I'm just looking at our site plan  
9               review.  Once we determine we have a  
10              complete application, then for the  
11              benefit of the applicant as well as  
12              for the Planning Board, you have 62  
13              days to set the public hearing, and  
14              then after that, basically 62 days  
15              after the close of the public hearing  
16              to make a determination one way or  
17              the other whether or not you're going  
18              to approve the site plan.

19              It seems to me that if we can  
20              make a determination that we have a  
21              complete application, if we make that  
22              verbally part of our process, then we  
23              can kind of set the clock in motion  
24              so that these people don't disappear  
25              for months and, you know, don't do

1       B O A R D   B U S I N E S S

2           their due diligence while other  
3           people, who are very good about  
4           following the rules that they're  
5           supposed to do and getting all the  
6           proper permits and operating a  
7           business and paying their taxes,  
8           those people are not being penalized  
9           while the other people, who are  
10          running businesses and perhaps  
11          inconveniencing the people around  
12          them because they haven't even had a  
13          public hearing, aren't really moving  
14          forward with their applications, are  
15          more or less taking advantage of the  
16          system because we don't have a way to  
17          cut them off or to hold them  
18          accountable.

19                 MR. GAROFALO:   Maybe what we  
20                 should do is track the applications  
21                 better, and then at least the  
22                 Building Department, if the question  
23                 was coming up, they would be able to  
24                 see these people started their  
25                 application in 2017 and they still

1       B O A R D   B U S I N E S S

2           haven't completed their application.  
3           Basically to track it through the  
4           whole system so that the Building --  
5           they could communicate better with  
6           the Building Department as far as  
7           what's going on. They could see  
8           what's going on.

9           MS. LANZETTA: I mean they can  
10          see what's going on by the records  
11          that we keep today. I'm saying to --  
12          if we say that an application is  
13          complete and we begin the review  
14          process, then we set the clock  
15          ticking to set public hearing, and if  
16          the applicant hasn't, you know, come  
17          back with the necessary information,  
18          we can either have a public hearing  
19          and have -- well no, we can't have a  
20          public hearing. That's why I bring  
21          this up.

22          MR. HINES: It's almost two  
23          different things you're trying to  
24          accomplish. Some people get here by  
25          having violations and are referred by

1       B O A R D   B U S I N E S S

2               the code office. I think that's what  
3               you're trying to --

4               MS. LANZETTA: Well, yeah. I  
5               mean, for instance, we have an  
6               applicant right now that is operating  
7               a full-time business and going like  
8               hotcakes and -- you know who I'm  
9               talking about. And, you know, it's  
10              been --

11              MR. HINES: And they have an  
12              enforcement action against them or  
13              no?

14              MS. LANZETTA: Not yet. At the  
15              same time I see that we have other  
16              applicants here that have had  
17              enforcement infractions and have had  
18              a hard time with the judicial system  
19              because they plead that they have  
20              applications in before us.

21              MR. HINES: We also have other  
22              applicants that don't have any  
23              enforcement actions and they just  
24              show up for three months and don't  
25              come back for a year-and-a-half.

1       B O A R D   B U S I N E S S

2                   MR. GAROFALO:   And some of that  
3                   you have to look at what's going on  
4                   in the sense that they may not have  
5                   money to proceed further with their  
6                   application because certain things  
7                   have to be done, or they may be  
8                   waiting for money to come in from the  
9                   bank or whatever, their investors.  
10                  There's a number of reasons why an  
11                  application may not be proceeding.

12                  I think it certainly should  
13                  give us pause when somebody comes in  
14                  with an application and there's an  
15                  extended period before they're  
16                  completed.  Once they're completed,  
17                  that's a different matter because  
18                  there is that time clock.  Also we  
19                  have to waive that time clock.

20                  I see that one of the  
21                  difficulties is that period before  
22                  they are completed and trying to  
23                  encourage them to come in and finish.

24                  It's not always a matter of  
25                  they want to -- they're purposely

1       B O A R D   B U S I N E S S

2               delaying. It may be that there are  
3               other issues that they're trying to  
4               resolve.

5               CHAIRMAN BRAND: Pat, is there  
6               a quick fix for that in your other  
7               municipalities?

8               MR. HINES: Some municipalities  
9               have their planning boards -- if you  
10              don't appear within a certain  
11              timeframe your application is deemed  
12              void and you have to reapply.

13              CHAIRMAN BRAND: And that's  
14              codified?

15              MR. HINES: Yes. It has a  
16              timeframe where if you don't show up  
17              before the board in nine months, a  
18              year. It's an extended time. Most of  
19              them are a year. If the board  
20              doesn't --

21              CHAIRMAN BRAND: One year?

22              MR. HINES: One year if you're  
23              gone and don't come back. You could  
24              have projects that do that, keep an  
25              open application and it just sits

1       B O A R D   B U S I N E S S

2               there and lingers for Jen to keep  
3               track of escrows and us to keep an  
4               open project.

5               You can codify that timeframe  
6               and say if your project doesn't  
7               remain active and hasn't appeared  
8               before the board in a year's time.  
9               Now you'll have people coming in and  
10              writing you a letter saying my year  
11              is almost up and I'm here to appear  
12              before you and I'll see you again in  
13              another year. It at least gives you a  
14              time point to cut it and end it.

15              CHAIRMAN BRAND:  If the  
16              supervisor was available I would  
17              probably have him weigh in on this  
18              and send information that -- maybe  
19              that's a recommendation, one year  
20              from the application starting  
21              process.  If we don't see in you a  
22              year --

23              MR. HINES:  At any point.  If  
24              you don't come before the Board and  
25              if you show up for six meetings and



1       B O A R D   B U S I N E S S

2               then disappear on us, it will be a  
3               timeframe where your application  
4               expires.

5               CHAIRMAN BRAND:  I'll include  
6               that in the monthly report.

7               MR. HINES:  The enforcement  
8               people, I see that in every town  
9               where they are referred to the  
10              building department.  They tell the  
11              judge I'll get site plan approval.  
12              They show up with an application that  
13              month but they have to go to court.  
14              They tell the judge we're before the  
15              planning board and the judge puts it  
16              out.  Before they have to come back  
17              to court again you get another -- a  
18              little bit of information from them  
19              and they say I was at the planning  
20              board meeting last night.  It's not  
21              unusual.  I don't know how you stop  
22              that one.  It happens in a lot of  
23              towns.

24              CHAIRMAN BRAND:  At least here  
25              they're  --

1        B O A R D   B U S I N E S S

2                MR. HINES:   Local justice  
3                courts aren't really a great place to  
4                take zoning violations because  
5                there's not a whole lot of hammer  
6                there.   If they lose in justice court  
7                they get minimal fines.   Not  
8                necessarily this court system but in  
9                a lot of towns.

10              MR. GAROFALO:   Is that  
11              something that could be rectified by  
12              if they have a judgment against them  
13              or something to that effect, that  
14              they have to come in in two months or  
15              in a certain period?

16              MR. HINES:   A lot of that is  
17              controlled by the courts and not by  
18              us.   We're an administrative review  
19              board and we don't have any judicial  
20              powers to say come back.

21              MR. LOFARO:   Increase the  
22              application fee with a refund when  
23              complete.   Like an extra portion.

24              CHAIRMAN BRAND:   An incentive.

25              MR. LOFARO:   When you meet this

1       B O A R D   B U S I N E S S

2               and this you'll get this back in a  
3               certain timeframe. We're actually  
4               billing them upfront so it's not  
5               coming - if you want it back you need  
6               to be done by this time.

7               MS. FLYNN: I usually have to  
8               ask for more. They're not getting  
9               anything back.

10              MR. HINES: That's the nature  
11              of this process.

12              MR. LOFARO: I just thought  
13              upfront. Either way.

14              MR. BATTISTONI: I may be  
15              speaking out of turn because I've  
16              never researched this, but I would  
17              think that the Board controls its own  
18              agenda. If you find you have an  
19              recalcitrant applicant, you ask for  
20              submissions and they don't make them,  
21              you ask for submissions and they  
22              don't submit them, I think you're  
23              within your realm to give them a  
24              notice, okay, submit this by next  
25              meeting or we're dismissing your

1       B O A R D   B U S I N E S S

2               application and come back when you're  
3               ready. I don't know if you need it  
4               codified in the town code that it has  
5               to be a certain period of time.

6               CHAIRMAN BRAND: Interesting.

7               MR. BATTISTONI: I will say, to  
8               take this a step further, in the  
9               realm of the zoning board of appeals,  
10              an application to a zoning board of  
11              appeals stays enforceable. Many  
12              people go to the ZBA and do nothing  
13              with their application because it  
14              does stop a court proceeding. So  
15              ZBAs get frustrated with that. I've  
16              seen the ZBAs say next month have all  
17              this or we're dismissing your  
18              application.

19              CHAIRMAN BRAND: As opposed to  
20              having it codified, we can keep track  
21              and say this person hasn't been here  
22              in a year, we have a letter that's  
23              ready to go, send it out to them, you  
24              haven't appeared in a year, your  
25              application will be terminated unless

1       B O A R D   B U S I N E S S

2               we hear differently.

3               MR. BATTISTONI:  I think you  
4               could do that.  If somebody says I'm  
5               waiting for my surveyor to do the  
6               topo and he's just slow and I can't  
7               help it, I'm trying, you cut them  
8               some slack.

9               CHAIRMAN BRAND:  Do I have a  
10              motion to have Jeff prepare that  
11              letter for us to use to send out  
12              after a one year no show?

13              MS. LANZETTA:  Do you think one  
14              year?

15              MR. BATTISTONI:  One year is  
16              too long.

17              MS. LANZETTA:  I'll say six  
18              months.

19              CHAIRMAN BRAND:  Six months.  So  
20              do I have that motion?

21              MR. LOFARO:  I'll make that  
22              motion.

23              CHAIRMAN BRAND:  Joe.  Is there  
24              a second?

25              MS. LANZETTA:  I'll second that.

1       B O A R D   B U S I N E S S

2                   CHAIRMAN BRAND:  Any discussion?

3                   MR. HINES:  Is it going to be  
4                   on your application letting them know  
5                   that?

6                   CHAIRMAN BRAND:  We can modify  
7                   that.  I mean I don't think we're in  
8                   a rush for this.

9                   And then maybe, Jen, you could  
10                  look through and see if there are  
11                  people that are at six months right  
12                  now.

13                  MS. FLYNN:  There's a couple.

14                  CHAIRMAN BRAND:  When that  
15                  letter is ready, we fire it off to  
16                  them.

17                  MR. HINES:  A letter to give  
18                  them a month to appear or you're  
19                  done?

20                  CHAIRMAN BRAND:  We'll give  
21                  them --

22                  MR. BATTISTONI:  Give them a  
23                  month to come to a meeting and submit  
24                  what's needed.

25                  CHAIRMAN BRAND:  Right.  If you

1       B O A R D   B U S I N E S S

2               don't, you're done and you have to  
3               start over.

4               MR. LOFARO:   In that letter say  
5               you would need to come to this  
6               meeting.   Give them a few dates or  
7               whatever.

8               CHAIRMAN BRAND:   The next  
9               deadline for the next scheduled  
10              meeting is blank.   If you're not here  
11              and you don't have whatever is  
12              required for that meeting, then your  
13              application is terminated.   I like  
14              that idea.   That's easier than  
15              codifying it and changing the code.  
16              Okay.

17              MR. GAROFALO:   Do you want me  
18              to add that to the forms?

19              CHAIRMAN BRAND:   Let's wait  
20              until we get the letter from Jeff and  
21              see what it is.   We can take the  
22              language from the letter to put in  
23              the form exactly as it's written.  
24              Six months, you get the next meeting  
25              or you're done.

1       B O A R D   B U S I N E S S

2                   MS. FLYNN:  It just might be  
3       easier to add a page to the  
4       application than modifying the  
5       application.

6                   MR. GAROFALO:  Especially since  
7       we've been doing very large type.

8                   CHAIRMAN BRAND:  That's good.  
9       Is that it, Cindy.

10                  MS. LANZETTA:  Yes.

11                  CHAIRMAN BRAND:  I did have a  
12       question with regard to the e-mail  
13       from the code enforcement officer,  
14       Pat.  What does that mean to us as a  
15       Board in our review process?  Are you  
16       the guy that's going to be picking up  
17       the slack?

18                  MR. HINES:  Yes.  Normally I  
19       depended on getting that letter from  
20       them.  I will --

21                  CHAIRMAN BRAND:  So your  
22       initial review process becomes a  
23       little --

24                  MR. HINES:  I'll refer any  
25       variances and such.



1       B O A R D   B U S I N E S S

2                   CHAIRMAN BRAND:   Okay.   And  
3       just out of my own personal  
4       curiosity, is that going to increase  
5       the cost of the applicant's thing  
6       now?

7                   MR. HINES:   I normally did it  
8       in the normal course anyway. It was  
9       helpful to have the code enforcement  
10      officer, have his interpretation on  
11      some stuff.

12                  MR. GAROFALO:   He still may  
13      have to do some interpretations if we  
14      don't know exactly where it fits.  
15      Ultimately, once we pass it, he can't  
16      give a permit unless it meets, I  
17      guess, the zoning.

18                  MR. HINES:   Right.   An example,  
19      just a quick one, I usually don't  
20      pull out the zoning map and cross  
21      check what zone a project is in.  
22      It's kind of like I depend on the  
23      applicant's representative to know  
24      their zone.   Tommy has caught some of  
25      those in his gatekeeper letter. When

1       B O A R D   B U S I N E S S

2           I get a project, I've had to pull the  
3           zoning map out and find that tax lot  
4           and say all right, it's there. That  
5           was something that used to get done  
6           before we got it. It's going to take  
7           ten minutes.

8                   CHAIRMAN BRAND: Okay.

9                   MR. GAROFALO: Ultimately what  
10          you want to avoid is passing  
11          something and then it gets to the  
12          Building Department and the Building  
13          Department says no, it doesn't fit in  
14          this zone.

15                  MS. FLYNN: So does Pat now get  
16          the application first?

17                  CHAIRMAN BRAND: I would think  
18          no. It would be a part of his  
19          initial review.

20                  MR. HINES: It's going to be  
21          the first comment letter I do.

22                  CHAIRMAN BRAND: Right. But  
23          that may lead to the you can't do  
24          this. Correct?

25                  MR. HINES: Yeah.

1       B O A R D   B U S I N E S S

2                   CHAIRMAN BRAND:   Okay.

3                   MR. HINES:   It may say this use  
4                   isn't allowed in this zone or your  
5                   bulk table isn't consistent with this  
6                   zone.

7                   CHAIRMAN BRAND:   Normally would  
8                   they have gotten that information  
9                   before they did the packet though,  
10                  Jen?   They would have already paid  
11                  everything?

12                  MR. HINES:   They've already  
13                  submitted.

14                  CHAIRMAN BRAND:   Anything else?  
15                  (No response.)

16                  CHAIRMAN BRAND:   So I'm willing  
17                  to table the Planning Board lot line  
18                  application discussion until the next  
19                  meeting since my watch already went  
20                  off with the time reminder.

21                  Are we good with that?

22                  MR. CLARKE:   Yes.

23                  MR. TRONCILLITO:   I'm fine with  
24                  that.

25                  CHAIRMAN BRAND:   Steve makes

1       B O A R D   B U S I N E S S

2               the motion to table that until the  
3               next meeting.

4               MR. LOFARO:  I'll second that.

5               CHAIRMAN BRAND:  Any discussion?

6               (No response.)

7               CHAIRMAN BRAND:  Also followed  
8               by a motion to adjourn by Bob  
9               Troncillito, seconded by Steve  
10              Clarke.

11              Thank you.

12

13              (Time noted:  9:32 p.m.)

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 12th day of April 2022.

Michelle Conero

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MICHELLE CONERO