

2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

-----X

4 In the Matter of

5 DANE DESANTIS and CECILIA COLANGELO

6 226 Highland Avenue
7 Marlboro, New York 12542

8 S.B.L #108.12-1-48

9 -----X

10 PUBLIC HEARING CONCERNING A 22.9 FEET
REQUIRED LOT WIDTH AREA VARIANCE REQUEST.

11 DATE: May 12, 2022

12 TIME: 6:00 P.M.

13 PLACE: Town of Marlborough

Town Hall
#21 Milton Turnpike
Milton, New York 12547

14 BOARD MEMBERS:

15 WILLIAM GIAMETTA, CHAIRMAN
16 JEFF MEKEEL
17 LENNY CONN
18 GEORGE SALINOVICH, ABSENT
19 ANDREW NIKOLA

20 ALSO PRESENT:

21 Dane Desantis, Applicant
Cecilia Colangelo, Applicant
Penny E. Cashman, Zoning Board
Secretary

22

23 -----X

24 LISA MARIE ROSSO
140 Mahoney Road
Milton, New York 12547
25 (845) 674-3937

LISA MARIE ROSSO - (845) 674-3937

1 DANE DESANTIS & CECILIA COLANGELO - PUBLIC HEARING

2 CHAIRMAN GIAMETTA: Welcome to the

3 Town of Marlboro Zoning Board of

4 Appeals, May 12th, meeting. Please

5 join me for the pledge to the flag.

6 (Pledge of Allegiance)

7 CHAIRMAN GIAMETTA: Thank you very

8 much. We have two matters on our

9 agenda this evening. But before we get

10 to those, we had minutes from the last
11 meeting under consideration and
12 approval. The last meeting was April
13 20th.

14 MR. MEKEEL: I make a motion we
15 approve the meeting minutes from April
16 20th.

17 CHAIRMAN GIAMETTA: Second?

18 MR. CONN: Yes.

19 CHAIRMAN GIAMETTA: All in favor?

20 MR. MEKEEL: Aye.

21 MR. CONN: Aye.

22 MR. NIKOLA: I will abstain
23 because I was absent at that meeting.

24 CHAIRMAN GIAMETTA: Thank you.

25 The first matter is the Desantis matter

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1 DANE DESANTIS & CECILIA COLANGELO - PUBLIC HEARING

2 and we have to read the legal notice
3 for it. Mr. Nikola, if you would?

4 MR. NIKOLA: Town of Marlborough
5 Zoning Board of Appeals Legal Notice.

6 Please take notice that a public
7 hearing will be held by the Town of
8 Marlborough Zoning Board of Appeals,
9 ZBA, at the Town Hall, 21 Milton

10 Turnpike, Milton, New York on May 12th
11 2022 at 6:00 P.M. or soon thereafter as
12 may be heard. Owner/applicant Dane
13 Desantis is seeking relief from Town of
14 Marlborough Code 155, Attachment 2,
15 Schedule 1, by way of a 22.9 feet
16 required width area variance.

17 Location, 226 Highland Avenue. Tax
18 parcel, Section 108.12. Block 1. Lot
19 48 (R Zone). Any interested parties,
20 either for or against this application,

21 will have the opportunity to be heard
22 at this time. William Giometta,
23 Chairman, Town of Marlborough Zoning
24 Board of Appeals.
25 CHAIRMAN GIAMETTA: Thank you very

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1 DANE DESANTIS & CECILIA COLANGELO - PUBLIC HEARING

2 much. The notifications of the
3 neighbors has been completed?

4 MR. DESANTIS: Yes, it has. We
5 sent out 54 letters of 57 on the list,
6 but three properties are null with no
7 address to send on the partial
8 document. So we sent all of the
9 information, and it has been turned
10 into the committee.

11 CHAIRMAN GIAMETTA: Ms. Cashman,
12 how many do you have, on the record?

13 MS. CASHMAN: Fifty-four mailed.
14 One came back with no mail receptacle.
15 Forty were returned signed, and 13 are
16 still unaccounted for.

17 CHAIRMAN GIAMETTA: Okay. Of this
18 very legal notice; correct.

19 MR. DESANTIS: Yes.

20 CHAIRMAN GIAMETTA: Would you
21 kindly briefly explain why you're here
22 tonight?

23 MR. DESANTIS: Yes, we are here
24 tonight to continue our zoning board
25 request for an area variance for a lot

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1 DANE DESANTIS & CECILIA COLANGELO - PUBLIC HEARING

2 width of our proposed subdivision at 26
3 Highland Avenue. Our property meets

4 all other required codes per the Town R
5 Zone that we are located in. We just
6 are able to get the desired 75-foot
7 width of the property due to a
8 telephone easement in the back of the
9 property, which pretty much only will
10 allow us to build at one location of
11 the property.

12 CHAIRMAN GIAMETTA: Board members,
13 do we have a thorough understanding of
14 that?

15 MR. NIKOLA: Yes.

16 MR. CONN: Yes.

17 MR. MEKEEL: Yes.

18 CHAIRMAN GIAMETTA: At this time,
19 I would like to ask the public if there
20 is anybody who would like to speak,
21 either for or against the project of
22 the Desantis? Anyone out there?

23 (No audible response)

24 CHAIRMAN GIAMETTA: Having heard
25 none, I do call attention to a letter

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1 DANE DESANTIS & CECILIA COLANGELO - PUBLIC HEARING
2 that was sent to us, and I would like
3 it read for the record. Mr. Conn,
4 would you be kind enough to read the
5 letter --

6 MR. CONN: Sure.

7 CHAIRMAN GIAMETTA: -- regarding
8 this matter?

9 MR. CONN: I will read it
10 verbatim. Dear William Giametta, How
11 are you? Our name are Yee Lam and Sau
12 Chu Chan. We are the owner of 69
13 Western Avenue, Marlborough, New York
14 12542. We are against applicant Dane

15 Desantis. We are not agree relief from
16 Town of Marlborough Code 155,
17 Attachment 2, Schedule 1 by way of a
18 22.9 feet required lot width area
19 variance because it is too closed to my
20 property. I have right to say no. I
21 need to work. I may not have time to
22 attend the meeting on May 12, 2022 at
23 6:00 P.M., Town Hall. Thanks for your
24 cooperate. Sincerely, Yee Lam and Sau
25 Chu Cha, dated April 30th, 2022.

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1 DANE DESANTIS & CECILIA COLANGELO - PUBLIC HEARING

2 CHAIRMAN GIAMETTA: And their
3 address was what, Mr. Conn?
4 MR. CONN: Sixty-nine Western
5 Avenue.

6 CHAIRMAN GIAMETTA: And your
7 address is what?

8 MR. DESANTIS: 226 Highland
9 Avenue. They're not immediate
10 neighbors to us.

11 CHAIRMAN GIAMETTA: Thank you.
12 Thank you very much. Anyone else wish
13 to contribute either for or against
14 this matter?

15 (No audible response)

16 CHAIRMAN GIAMETTA: Having heard
17 no one to that effect. Board members,
18 any questions, concerns?

19 MR. MEKEEL: No.

20 MR. NIKOLA: No.

21 MR. CONN: No.

22 CHAIRMAN GIAMETTA: I need a
23 motion for --

24 MR. MEKEEL: I make a motion we
25 close the public hearing.

1 DANE DESANTIS & CECILIA COLANGELO - PUBLIC HEARING

2 CHAIRMAN GIAMETTA: Second?

3 MR. NIKOLA: I second.

4 CHAIRMAN GIAMETTA: All in favor?

5 MR. MEKEEL: Aye.

6 MR. CONN: Aye.

7 MR. NIKOLA: Aye.

8 CHAIRMAN GIAMETTA: And any

9 discussion on this matter?

10 MR. MEKEEL: No.

11 MR. NIKOLA: None.

12 MR. CONN: No.

13 CHAIRMAN GIAMETTA: I would ask

14 for a motion regarding it?

15 MR. CONN: I make a motion that we

16 give a 22.9 feet required lot width

17 area variance.

18 CHAIRMAN GIAMETTA: Second?

19 MR. MEKEEL: I will second that.

20 CHAIRMAN GIAMETTA: All in favor?

21 MR. NIKOLA: Aye.

22 MR. CONN: Aye.

23 MR. MEKEEL: Aye.

24 CHAIRMAN GIAMETTA: Your variance

25 is approved.

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1 DANE DESANTIS & CECILIA COLANGELO - PUBLIC HEARING

2 MR. DESANTIS: Thank you so much.

3 CHAIRMAN GIAMETTA: Okay. Good

4 luck to you and make sure you get your

5 required permits from Ms. Cashman and

6 her office. Anything else, Ms.

7 Cashman, on the Desantis matter?

8 MS. CASHMAN: No.

9 (Whereupon, at 6:07 P.M., the

10 Hearing was concluded.)

11

12 ? ? ? ?

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10

1 DANE DESANTIS & CECILIA COLANGELO - PUBLIC HEARING

2 C E R T I F I C A T E

3

4 STATE OF NEW YORK)

: SS.:

5 COUNTY OF ULSTER)

6

7 I, LISA M. ROSSO, a Notary Public for

8 and within the State of New York, do hereby

9 certify:

10 That the witness whose examination is

11 hereinbefore set forth was duly sworn and

12 that such examination is a true record of

13 the testimony given by that witness.

14 I further certify that I am not related

15 to any of the parties to this action by

16 blood or by marriage and that I am in no way

17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set

19 my hand this 2nd day of June 2022.

20

21

22 LISA M. ROSSO

23

24

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1

2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

-----X

4 In the Matter of

5 DAVID TODER

6 578 Route 44-55
7 Highland, New York 12528

8 S.B.L #95.2-2-10

9 -----X
10 PUBLIC HEARING CONCERNING THE REQUEST FOR A
11 21 FEET 8 INCH FRONT YARD AREA VARIANCE AND
A 13 FEET 5 INCH SIDE YARD SETBACK AREA
VARIANCE.

12 DATE: May 12, 2022

13 TIME: 6:08 P.M.

14 PLACE: Town of Marlborough
15 Town Hall
#21 Milton Turnpike
16 Milton, New York 12547

17 BOARD MEMBERS:
WILLIAM GIAMETTA, CHAIRMAN
18 JEFF MEKEEL
LENNY CONN
19 GEORGE SALINOVICH, ABSENT
ANDREW NIKOLA

20 ALSO PRESENT:

21 David Toder, Applicant
Penny E. Cashman, Zoning Board
22 Secretary

23 -----X
24 LISA MARIE ROSSO
140 Mahoney Road
25 Milton, New York 12547
(845) 674-3937

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2

1 DAVID TODER - PUBLIC HEARING

2 CHAIRMAN GIAMETTA: This brings us

3 to the second matter of the evening.

4 And like the first, there is a legal
5 notice that needs to be read. Would
6 one of the board members read it,
7 please?

8 MR. MEKEEL: Please take notice
9 that a public hearing will be held by
10 Town of Marlboro Zoning Board of
11 Appeals at the Town Hall, 21 Milton
12 Turnpike, Milton, New York on May 12th
13 2022 at 6:00 P.M. or soon thereafter as
14 may be heard. Owner/applicant David
15 Toder is seeking relief from Town of
16 Marlborogh Code 115, Attachment 2,
17 Schedule 1, by way of a 13 feet 5 inch
18 side yard setback area variance and a
19 21 feet 8 inch front yard setback area
20 variance. Location is 578 Route 44/55,
21 Highland, New York 12528. Tax parcel:
22 Section 95.2. Lot 10 and that is a C2
23 Zone. Any interested parties, either
24 for or against this application will
25 have the opportunity to be heard at

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3

1 DAVID TODER - PUBLIC HEARING

2 this time. William Giometta, Town of
3 Marlborough Zoning Board of Appeals.

4 CHAIRMAN GIAMETTA: Thank you very
5 much, Mr. Mekeel. And I believe Mr.
6 Toder is here this evening?

7 MR. TODER: Yes, I have some
8 updated site plans to share with you,
9 three copies here.

10 CHAIRMAN GIAMETTA: Are these
11 plans different from what was before us
12 at the workshop?

13 MR. TODER: Yes. There are a

14 number of differences. One is that
15 Patty Brooks pointed out that the prior
16 survey I was relaying on was incorrect
17 where the front yard -- the front
18 property line was.

19 MR. NIKOLA: This is correct then?

20 MR. TODER: I wanted to give you a
21 correct one. It's at the highway
22 25-foot from the center line of 44/55
23 in the front yard, not center line.

24 CHAIRMAN GIAMETTA: Are you saying
25 the measurement differs or the

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1 DAVID TODER - PUBLIC HEARING

2 measurement is the same?

3 MR. TODER: I'm saying the
4 property is actually smaller --

5 CHAIRMAN GIAMETTA: Smaller?
6 MR. TODER: -- than what was shown
7 on the previous plans in that that
8 showed the front property line in the
9 middle of 44/55, which was based on a
10 previous survey and Patty Brooks
11 pointed out that's not right.

12 MR. MEKEEL: Roughly 13 feet; is
13 that correct? From 38 and change?

14 MR. TODER: That variance -- that
15 dimension hasn't changed. I'm just
16 saying that the drawing is updated.

17 MR. MEKEEL: Okay. The drawing is
18 updated, okay.

19 MR. TODER: That's right. And
20 this plan also has a slight variation
21 on the front yard setback, as well as
22 the side yard setback compared to the
23 prior. One is that we are planning to
24 put in a new landing, stair and ramp to

25 access the bakery so that we have a

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1 DAVID TODER - PUBLIC HEARING

2 fully compliant --

3 MR. MEKEEL: Is this for handicap?

4 MR. TODER: Handicap code, that's

5 right. Because the current stairs are

6 not code compliant and so that --

7 instead of a 13 foot 4, because it's --

8 the building is at a slight angle, that

9 comes within almost 12-foot so that we

10 would like a 23-foot front yard

11 variance as opposed to 21 foot 8 that

12 we were previously asking for.

13 Basically 16 inches more to allow for

14 that landing, rather than on the front

15 corner of the building.

16 CHAIRMAN GIAMETTA: Is there any

17 other differences?

18 MR. TODER: The other difference

19 is that the side yard, I reviewed the

20 zoning code, and it is allowed that the

21 garage, for example, has an angle.

22 It's angled with reference to the side

23 yard and you can use the average width

24 of the angled building and so the

25 requested side yard variance is less

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1 DAVID TODER - PUBLIC HEARING

2 than previous, and so that's the other

3 substantial change.

4 MR. NIKOLA: Now 26 feet?

5 MR. TODER: Now we would like a 9

6 foot variance on the side yard to allow

7 the existing building to remain. We

8 don't need as large a variance as the
9 previous ones.

10 CHAIRMAN GIAMETTA: So, one
11 variance you're asking for a little
12 additional relief and one variance less
13 relief; is that correct?

14 MR. TODER: Yes.

15 CHAIRMAN GIAMETTA: Okay. Thank
16 you very much for that explanation.
17 Did you send out the notification to
18 the neighbors?

19 MR. TODER: Yes, apparently, they
20 were received.

21 CHAIRMAN GIAMETTA: Ms. Cashman?

22 MS. CASHMAN: He mailed out 18,
23 nothing came back.

24 CHAIRMAN GIAMETTA: How many went
25 out?

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1 DAVID TODER - PUBLIC HEARING

2 MS. CASHMAN: Eighteen.

3 CHAIRMAN GIAMETTA: Eighteen
4 mailings.

5 AUDIENCE: What had to come back?

6 CHAIRMAN GIAMETTA: I'm sorry?

7 MS. CASHMAN: The card that gets
8 signed.

9 AUDIENCE: They put it in our
10 mailbox.

11 CHAIRMAN GIAMETTA: So you're
12 saying 18 mailings went out; correct?

13 MS. CASHMAN: Yes.

14 MR. TODER: And apparently, there
15 were calls about the issues.

16 AUDIENCE: Oh, I have issues.

17 CHAIRMAN GIAMETTA: We're going to
18 be asking about that very shortly. Is

19 there anything further that you would
20 like to explain about the project to
21 the board and to the audience, or is
22 that pretty much it?

23 MR. TODER: Yes, I'd like to back
24 up then just to do the overall
25 explanation.

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1 DAVID TODER - PUBLIC HEARING
2 MS. CASHMAN: Yes.
3 MR. TODER: Thank you.
4 MR. MEKEEL: Yes.
5 MR. TODER: So the -- let's see,
6 the current use of that building is
7 said to be residential, but we're
8 changing it to commercial. The
9 planning board is saying since it's a
10 change of use, the existing building in
11 its existing location must receive
12 variances because it's close to the
13 road and the side yard or side property
14 line than is allowed by current code
15 requirements. So, both of those are --
16 most allow the building remain where it
17 is. And then as I said at the
18 beginning, we are intending to add a
19 code compliant stair, landing, and ramp
20 entry to the bakery shop retail. And
21 that would -- because of the angle,
22 that would protrude about 16 inches
23 more closer to the road and the front
24 property line. So such that that one
25 is then a 23 foot front yard variance

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1 DAVID TODER - PUBLIC HEARING

2 from 35 foot front yard to the allowed
3 12 foot.

4 CHAIRMAN GIAMETTA: Question about
5 that handicap entry, how high off the
6 ground is the highest part roughly?

7 MR. TODER: The door is
8 approximately 14 inches, so just two
9 risers up.

10 CHAIRMAN GIAMETTA: Two risers.

11 MR. TODER: But because the door
12 swings out, it leads somewhat of a
13 generous landing and it's just one step
14 down, effectively two risers.

15 CHAIRMAN GIAMETTA: Thank you.

16 MR. TODER: And the ramp away from
17 the road along the --

18 CHAIRMAN GIAMETTA: Zoning is
19 commercial; correct?

20 MR. TODER: Yes, C2.

21 CHAIRMAN GIAMETTA: C2?

22 MR. MEKEEL: Prior to being
23 residential, it was commercial?

24 MR. TODER: That's correct. It
25 was Rachel's Candy Store and I believe

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1 DAVID TODER - PUBLIC HEARING
2 other commercial uses decades before
3 that. And then since approximately
4 2010, it has been residential and so
5 this is a return to historic.

6 MR. MEKEEL: The building has been
7 there for how long?

8 MR. TODER: Oh, at least since
9 1920's. I think it was a garage before
10 it was a candy store. A garage
11 probably for horses and carriages
12 before that, if it's that old, but I'm

13 not certain.
14 CHAIRMAN GIAMETTA: We are
15 reviewing the permit uses in the C2
16 zone, and the primary use is a bakery;
17 is that correct?

18 MS. BELL: Uh-huh.

19 CHAIRMAN GIAMETTA: Okay. We find
20 that that is yes, a permitted use in
21 the C2 zone so that is a big plus.
22 Also, there is no need to be concerned
23 about a use variance. We're addressing
24 the area variances only at this point.
25 At this time, I'd like to open up the

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1 DAVID TODER - PUBLIC HEARING
2 matter to the public to speak either
3 for or against the project. And if you
4 have some comments, please state your
5 name for the record. Anyone wish to
6 speak?

7 AUDIENCE: I don't have comments
8 for or against, because I need some
9 information.

10 CHAIRMAN GIAMETTA: What's your
11 name, ma'am?

12 MS. PAPORTO: My name is Dorothy
13 Paporto, and I reside at 570. First of
14 all, who is David Toder?

15 MR. TODER: I am the architect for
16 the baker, Kristin, who is here.

17 MS. PAPORTO: So you own it?

18 MR. TODER: I am not the owner,
19 and neither is Kristin. She's the
20 tenant, and I'm employed by the owner
21 and Kristin to assist in this project
22 and it's easiest for me to be
23 represented of the project, and so it's

24 in my name.

25 MS. PAPORTO: Because I had

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1 DAVID TODER - PUBLIC HEARING
2 surveyors on my property walking
3 around, and I thought, oh, that's okay.
4 I was a little curious, you know. My
5 house is up in the back, and it's a
6 long driveway with a wooden lot in
7 front of me, which I purposely obtained
8 so that no one would put up, you know,
9 like a garage or car wash or something
10 like that. So it's a wooden lot, but
11 at least I'd rather come up the
12 driveway with a wooded lot, you know,
13 than something else. Well, it didn't
14 bother me that they was surveying until
15 they started digging a hole on the
16 property, and when I went out and asked
17 them, hey guys, what are you doing?
18 They told me, and I said, well, who
19 hired you? And they said, well, the
20 bakery. Well, no, the owner. Well, I
21 don't know. And so I stood there and I
22 said, you know don't who hired you? I
23 said that is a business. And I thought
24 that was odd. And I thought it would
25 just be respectful if you're going to

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1 DAVID TODER - PUBLIC HEARING
2 have two or three guys walking around
3 your property digging a hole looking
4 for a steel rod that you kind of knock
5 on the door, Dorothy, we're going to be
6 walking around your property, all

7 right. Okay. What's it about? And
8 it's not just general curiosity, like,
9 oh, she is a nosy old lady that lives
10 up on the hill, their property is right
11 against my property, okay. So, I
12 thought it would have been nice that
13 being done. And do surveyors usually
14 do that? Do they usually just start
15 work without knocking on a person's
16 door?

17 MR. TODER: They normally are on
18 the subject property and so, if they're
19 putting the foot over the line, they're
20 generally seeking their --

21 MS. PAPORTO: At that point, I
22 didn't receive a letter. I didn't
23 know. Subject to what?

24 MR. TODER: I just mean that most
25 of them are on the bakery property. I

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14

1 DAVID TODER - PUBLIC HEARING
2 believe even if they, you know, step
3 foot on your property, they were
4 surveying the property.

5 MS. PAPORTO: They were digging a
6 hole between the lot. I own the lot,
7 of course, where my house is, and then
8 the lot in front is the one that I
9 purchased several years later in 1980,
10 you know, for that sole purpose, just
11 to keep it all one being, you know, and
12 not have somebody build up in front.

13 So, when you're digging a hole on
14 somebody's property, I don't know, just
15 knock at the door, I say, you know, for
16 one. And so you are not the owner and
17 you're not the person that this is

18 going to effect? It's going to be the
19 bakery?
20 MR. TODER: That's correct. And
21 I'm not the surveyor either. That
22 happens to be a separate --
23 MS. PAPORTO: You don't mind me
24 asking?
25 MR. TODER: Of course.

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15

1 DAVID TODER - PUBLIC HEARING
2 MS. PAPORTO: I come from the
3 north and you don't walk around
4 people's property.
5 CHAIRMAN GIAMETTA: Excuse me, the
6 surveying matter you discussed
7 somewhat. Is there something further
8 to go over?
9 MS. PAPORTO: Definitely. As soon
10 as you can inform me as to what Code
11 155, Attachment 2, Schedule 1 is, I
12 can't tell you whether I agree with it
13 or disagree with it.
14 CHAIRMAN GIAMETTA: Okay. That is
15 what are called the tables of the Town
16 of Marlborough Zoning Code, and it's a
17 guideline and a requirement of all
18 properties to meet certain parameters
19 of those tables within each individual
20 zone. And the project before us does
21 not meet all of those parameters.
22 That's why we're here this evening.
23 MR. TODER: The existing building
24 is closer to the street than is allowed
25 by current zoning code. So it

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1 DAVID TODER - PUBLIC HEARING
2 encroaches on the front yard setback.
3 It's the existing building. So we're
4 not adding onto it, we're making it
5 more of an encroachment.

6 MS. PAPORTO: Did your surveyor
7 come up with the fact that the parking
8 lot, which is on the side of the
9 building, is on their property?
10 Because I always thought it was kind of
11 like on my property, but I never made
12 an issue because it is a wooded lot,
13 they keep their property nicely. I
14 have been there 46 years, I don't
15 bother anybody, nobody bothers me, and
16 it wasn't worth bringing up until I see
17 it in black and white. So could you
18 tell me what your surveyor found?

19 MR. TODER: Not as well as the
20 surveyor. That's one reason we're
21 involved to make absolutely certain
22 where the property lines are so that
23 we're not on your property with
24 anything.

25 MS. PAPORTO: You realize you got

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17

1 DAVID TODER - PUBLIC HEARING
2 these pink ribbons?

3 MR. TODER: Yes.

4 MS. PAPORTO: And that is a
5 demarcation of your property?

6 MR. TODER: Right.

7 MS. PAPORTO: It's really close to
8 the corner of the garage, which is on
9 an angle. I kind of thought that was
10 on my property too. But, there again,
11 I said, Dorothy, what are you

12 complaining for? It's just all logs
13 and wooded logs there, you know, but
14 now that brings me to my next
15 question --
16 MR. NIKOLA: Ma'am, can I just ask
17 you to show us on your map that we have
18 where your property is if it's in
19 relation to being quite close to the
20 bakery?

21 MS. PAPORTO: Oh, it's right next
22 to it.

23 MR. NIKOLA: You said wooded area.
24 Here is the building that we're
25 referring to.

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2 MS. PAPORTO: Is this facing you
3 or facing me?

4 MR. NIKOLA: I will turn it around
5 for you. Not a problem. Here is the
6 bakery, and there is the ramp.

7 MS. PAPORTO: Yes.

8 MR. NIKOLA: So whereabouts is
9 your property?

10 MS. PAPORTO: Well, I'm between
11 the ranch and the bakery.

12 MR. NIKOLA: Correct.

13 MR. CONN: Is this your house
14 right here?

15 MS. PAPORTO: This is my wooded
16 lot right here. That would be the
17 driveway that would go up and back to
18 my house.

19 MR. NIKOLA: Which is probably
20 right here?

21 MS. PAPORTO: Yes, I could see
22 people coming in and out, you know,

23 their back yard is my front yard.

24 MR. NIKOLA: Adjacent to you.

25 MS. PAPORTO: And over a little.

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2 So this is why I had had concerns about
3 the parking lot.

4 MR. NIKOLA: Understood. This is
5 a neighbor of yours right here, I
6 presume.

7 MS. PAPORTO: Yes, used to be
8 Novaks. I don't know who the people
9 are now.

10 MR. NIKOLA: That is fine. I will
11 circle this and share it with the
12 others so they can see.

13 MS. PAPORTO: Now, I also note
14 that it says 13 feet, 5 inches, and
15 they also make mention of 21 feet, 8
16 inches. How do we get so specific with
17 these dimensions and what do these
18 dimensions mean and are you certain by
19 your survey because I'm really kind of
20 starting that --

21 MR. CONN: All of the building
22 codes require specific lot, depth,
23 width, front yard setbacks before you
24 can put another structure within those
25 and so --

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2 MS. PAPORTO: Oh, good.

3 MR. CONN: -- if they don't have
4 enough on the side, the front, the
5 back, they have to come for a variance.

6 And that's what the --
7 MS. PAPORTO: See, that is what I
8 didn't understand.
9 MR. CONN: That's what the survey
10 does. The surveyor comes and gives an
11 actual exact measurement of exactly how
12 far so they know how much they need.
13 When he came before us before at the
14 last meeting, the original survey that
15 they used, as Mr. Toder said, was
16 incorrect. So that is why they came
17 out, and did a more current survey on
18 the property and now we have the
19 measurements.

20 MS. PAPORTO: So, now it's correct
21 all of a sudden? I mean, you can't
22 change a survey, you can't change
23 boundary lines.

24 MR. CONN: What happens is your
25 property lines don't necessarily

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2 change, but what happens is on your
3 setbacks sometimes they change. And we
4 had a case before us a couple of months
5 ago, because the county widened the
6 road, and they take their eminent
7 domain privileges that reduce the front
8 yard setback for that property owner
9 that had been there, like you said,
10 there for 40 years. So their house may
11 have been --

12 MS. PAPORTO: Forty-six.

13 MR. CONN: -- in compliance with
14 code when it was built, but because it
15 was a county road --

16 MS. PAPORTO: So, the setbacks

17 same thing.
18 MR. CONN: -- and the county came
19 and said we're going to widen this road
20 and take more space in front for our
21 county road. That reduced --
22 MS. PAPORTO: Yeah, I understand.
23 MR. CONN: -- their front yard
24 setback.
25 MS. PAPORTO: It's just logistics.

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2 MR. CONN: Sometimes it's to no
3 fault of the property owner.
4 MS. PAPORTO: How do I then -- do
5 I have to get a surveyor to see whether
6 or not the garage is on my property and
7 whether the parking lot is on my
8 property? Not completely, but a good
9 partial, and there again, Hey, Dorothy,
10 we're going to, you know, make this a
11 ramp, or put the parking lot a little
12 wider, you don't mind if we take a
13 couple of feet of your wooded lot? I
14 would have said, not at all.
15 MR. CONN: That's why we have
16 these meetings and that's why there are
17 planning board meetings that are open
18 to the public.
19 MS. PAPORTO: Right. And I am
20 sorry to make it tedious, but I want to
21 understand before I say I agree or
22 disagree. I'm not disagreeable as
23 nature. I mean, I have been there 46
24 years and I don't think you've seen me
25 so... let me see if I had any other

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2 questions. And then, there again, I
3 would think that the 13 feet would be
4 the bakery from the side to the wooded
5 lot and the 21 feet is the lengthwise
6 of their -- is that where that comes
7 from?

8 MR. CONN: Your numbers that
9 you're looking at is changed, and
10 that's the most recent survey. That's
11 what he is saying.

12 MS. PAPORTO: Because the law
13 changed or the survey changed?

14 MR. CONN: No, it wasn't the
15 survey. The original survey, because
16 probably things that had happened in
17 the past was incorrect, and they were
18 going on old information, so they did a
19 more current survey recently.

20 MS. PAPORTO: According to whose
21 guidelines?

22 MR. CONN: Well, it could have
23 been, like I just explained to you, the
24 setbacks could have changed, the county
25 could've extended the road.

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2 MS. PAPORTO: I don't care if the
3 county extended it. I just don't want
4 somebody else changing it on me like a
5 private citizen. Oh, we're going to
6 resurvey it. Let me say we're going to
7 dig this hole a little bit, and we'll
8 move this flag over here a little bit
9 more, so that everything shifts a
10 little way and then we're copesettic.

11 CHAIRMAN GIAMETTA: If you hire a
12 surveyor, it would have to identically
13 match the applicant's survey. The
14 position of the markers by law they
15 have to coincide exactly.

16 MS. PAPORTO: By law, that is what
17 I would think.

18 MR. CONN: And the numbers that I
19 was originally telling you that are
20 changed, the front yard setback he now
21 needs 23 feet variance, which is a
22 little more of what was originally
23 asked for and the side yard now needs 9
24 feet, which is less than what was
25 originally asked for.

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2 MS. PAPORTO: Can I briefly ask
3 how this will affect me? All right. I
4 live in their backyard up on a hill,
5 it's a wooded lot up ahead of me, is
6 anything going to touch my wooded lot?

7 MR. MEKEEL: No, everything is
8 going to stay the same.

9 MR. CONN: No, nothing can go on
10 your property. He has to stay within
11 his property within the setbacks.

12 MS. PAPORTO: Those pink flags.

13 MR. CONN: Well, I can't speak for
14 those. I don't know where they are.

15 MS. PAPORTO: There are two sets.
16 Come up.

17 MR. MEKEEL: That's good for you,
18 so some day if you go to sell.

19 MS. PAPORTO: There is two sets of
20 flags actually. I can go back to my
21 seat now.

22 CHAIRMAN GIAMETTA: Thank you.

23 Was there any further input from the

24 public?

25 MR. RHODES: Yes. My name is

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2 Michael Rhodes, and what else did you

3 want?

4 CHAIRMAN GIAMETTA: Are you

5 speaking for or against the project?

6 MR. RHODES: I have some comments.

7 Gentlemen, I don't know if you know me

8 or don't know me, but I was born and

9 raised on Bailey's Gap in the house

10 that I still live in there, and I have

11 three -- two parcels now. I used to

12 have three. I helped organize the

13 residence back about 17 years ago when

14 we pushed the town back because the

15 town was creating a strictly commercial

16 zone there and we pushed back saying

17 but we live there, so the town

18 accommodated us by creating the C2

19 zone, which is mixed and so it's

20 anticipated it's going to create issues

21 because over the last 20, 30 years,

22 that's just been a highway, everybody

23 just zooms up and down. However, when

24 I go back 30 years, we had a

25 barbershop, we had restaurants, we had

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2 two hotels, we had four gas stations --

3 three gas stations, Bailey's Gap was a

4 village, and the residence there -- we

5 have residences and commercial so it
6 creates contention. The property in
7 question was owned by a great aunt of
8 mine, Rachel Rhodes, that shop, for at
9 least 60 years, she was my married to
10 my great uncle. Next to it is
11 currently my great grandfather's house,
12 which we have pictures of, just after
13 the civil war. And his blacksmith shop
14 is still there. This is all existing.
15 So, anyway, I'm here to just say I
16 would ask that the town just pause a
17 moment, take a little reflection on
18 what that area is, what it was. In my
19 opinion, our biggest problem there is,
20 I am sorry to say, lack of police
21 presence. And the chief knows me, I
22 call him all the time because I never
23 see a police car up there, not from
24 Marlboro, and I'm sorry to say it, but
25 it's true. And the speed limit, it's

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2 dangerous because there is no signs,
3 there are no signs on that road telling
4 you to slow down, telling you it's a
5 densely populated area, telling you
6 there is even a speed limit. I just
7 came driving back and forth through
8 there looking, and if there is a speed
9 limit, I may be wrong, but I think it's
10 like 40, 45. We are trying and I am
11 basically in support of the project,
12 because I think, if for no other
13 reason, that building existed for 60
14 years as a commercial building, it is
15 at the crest of the highway elevation

16 wise so you can see cars from both
17 sides coming and going. It's not like
18 it's hidden. It is a little congested,
19 and I know there has been accidents up
20 there, but, again, I really believe
21 it's because we're not being recognized
22 as a residential area where people are
23 living and walking. You take your life
24 in your hands trying to walk on that
25 road up there. They'll throw you in

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1 DAVID TODER - PUBLIC HEARING
2 the ditch. So, I wouldn't want
3 those -- that current situation to work
4 against this young lady for what she is
5 trying to do. Because if she were
6 doing this 50 years ago, that would
7 have been no -- like I said, stores
8 were there, barbershops, everything,
9 but we didn't drive 50 miles an hour
10 and motorcycles racing up and down the
11 highway. One of the issues that I
12 bring before the town again and trying
13 to give some information, that Mobil
14 gas station up there, which I owned,
15 and it's been developed now since I
16 sold it, operates 24 hours a day. That
17 tells you something about the traffic.
18 And yet I -- last year I was here for
19 six months in residence. I was on that
20 highway every day, and I swear to God,
21 never saw a police car, not a Marlboro
22 policeman, and I was -- I mean, I'm not
23 upset as much as just begging and
24 asking the town to recognize us. I
25 know you guys have Milton, and

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2 Middlehope, and Marlboro, everybody

3 gets all of this attention, but

4 Bailey's Gap exists, and it has a

5 history, and it goes back to over 150

6 years, and it's part of your town. And

7 I guess that is all I -- okay.

8 CHAIRMAN GIAMETTA: Thank you very

9 much.

10 MR. RHODES: You're welcome.

11 CHAIRMAN GIAMETTA: Anyone else

12 wish to contribute?

13 (No audible response)

14 MR. MEKEEL: I make a motion we

15 close the public hearing.

16 MR. NIKOLA: Second.

17 CHAIRMAN GIAMETTA: All in favor?

18 MR. NIKOLA: Aye.

19 MR. MEKEEL: Aye.

20 MR. CONN: Aye.

21 CHAIRMAN GIAMETTA: The public

22 hearing is now closed. Any discussion

23 about the matter?

24 MR. MEKEEL: I do not have any

25 discussions, no.

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2 MR. NIKOLA: No.

3 MR. CONN: No.

4 CHAIRMAN GIAMETTA: Are we ready

5 to make a motion regarding it? Okay,

6 someone be kind enough to make a motion

7 on this matter.

8 MR. NIKOLA: I make a motion to

9 approve the applicant, David Toder,

10 relief from the Town of Marlborough
11 Code 155, Attachment 2, Schedule 1, by
12 way of a 9 foot, which is an amendment,
13 for the side yard setback area
14 variance, and a 23-foot front yard
15 setback area variance, which is also an
16 amendment from the original, according
17 to the legal notice.

18 MR. MEKEEL: I will second that
19 motion.

20 CHAIRMAN GIAMETTA: All in favor?

21 MR. MEKEEL: Aye.

22 MR. CONN: Aye.

23 MR. NIKOLA: Aye.

24 CHAIRMAN GIAMETTA: Aye.

25 MS. PAPORTO: Can I just add

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1 DAVID TODER - PUBLIC HEARING
2 something?
3 CHAIRMAN GIAMETTA: Bare with me,
4 ma'am. We will talk about that
5 briefly. Motion carried and approved,
6 variance granted. Thank you, Mr.
7 Toder. Thank you, Mr. Nikola for
8 reading that nicely, and I'm going to
9 ask one more question. What did you
10 want to say, ma'am?

11 MS. PAPORTO: Just advise
12 surveyors when it comes up at other
13 times that if you've got people walking
14 around with their setups, especially
15 they were in my -- they were really on
16 my property, because they -- I own two
17 parcels of land.

18 CHAIRMAN GIAMETTA: Right.

19 MS. PAPORTO: So as they're
20 kicking up something for the iron rod,

21 I think that should -- and they're on
22 my side of the driveway, and I don't
23 like to disturb the stability of the
24 trees down there, you know.

25 CHAIRMAN GIAMETTA: So you

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1 DAVID TODER - PUBLIC HEARING
2 recommend the surveyors be more
3 courteous; correct?

4 MS. PAPORTO: No, I recommend they
5 notify the resident and say your
6 property will be surveyed. Do you give
7 us permission, and we'll be there
8 Tuesday afternoon. Come on.

9 CHAIRMAN GIAMETTA: Thank you for
10 your thoughts, ma'am.

11 MS. PAPORTO: Any time.

12 CHAIRMAN GIAMETTA: Anything
13 further, board members? Motion to
14 adjourn?

15 MR. MEKEEL: I make a motion we
16 adjourn the meeting.

17 MR. CONN: I second.

18 CHAIRMAN GIAMETTA: All in favor?

19 MR. MEKEEL: Aye.

20 MR. CONN: Aye.

21 MR. NIKOLA: Aye.

22 CHAIRMAN GIAMETTA: Meeting is
23 over for tonight. Thank you very much.

24 (Whereupon, at 6:43 P.M., the
25 Hearing was adjourned.)

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1 DAVID TODER - PUBLIC HEARING

2 ? ? ? ?

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

4

5 STATE OF NEW YORK)
6 : SS.:
6 COUNTY OF ULSTER)

7

8 I, LISA M. ROSSO, a Notary Public for
9 and within the State of New York, do hereby
10 certify:

11 That the witness whose examination is
12 hereinbefore set forth was duly sworn and
13 that such examination is a true record of
14 the testimony given by that witness.

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

19 IN WITNESS WHEREOF, I have hereunto set
20 my hand this 4th day of June 2022.

21

22

23

 LISA M. ROSSO

24

25

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