

1  
2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

-----X

4 In the Matter of

5 KEEBOMED, INC.

6 Route 9W  
7 Milton, New York 12547

8 S.B.L #103.3.-1-17.110

9 -----X  
10 WORKSHOP MEETING CONCERNING AN AREA SETBACK  
VARIANCE REQUEST.

11 DATE: June 9, 2022

12 TIME: 6:00 P.M.

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

16 BOARD MEMBERS:

17 WILLIAM GIAMETTA, CHAIRMAN  
JEFF MEKEEL  
18 LENNY CONN  
GEORGE SALINOVICH  
ANDREW NIKOLA, Absent

19 ALSO PRESENT:

20 Brooks & Brooks Engineering,  
Patricia P. Brooks, Land Surveyor

21  
22 Penny E. Cashman, Zoning Board  
Secretary

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

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1 KEEBOMED, INC. - WORKSHOP

2 CHAIRMAN GIAMETTA: Welcome to the

3 June 9th, 2022 meeting of the Town of  
4 Marlborough Zoning Board of Appeals.

5 Please join me for the pledge to the  
6 flag.

7 (Pledge of Allegiance)

8 CHAIRMAN GIAMETTA: Thank you very  
9 much. We've got one item on the agenda

10 this evening. But before that, we have  
11 minutes from the May 12th meeting.

12 Does anybody wish to comment on those  
13 minutes, amend them, or modify them?

14 MR. MEKEEL: I have no comments.

15 CHAIRMAN GIAMETTA: No comments?

16 Mr. Conn, do you have any comments for  
17 the meeting?

18 MR. CONN: No.

19 MR. SALINOVICH: I wasn't here.

20 CHAIRMAN GIAMETTA: Motion to  
21 approve?

22 MR. MEKEEL: I will make a motion  
23 to approve the minutes of May 12th,  
24 2022.

25 CHAIRMAN GIAMETTA: A second?

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2 MR. CONN: Yes.

3 CHAIRMAN GIAMETTA: All in favor?

4 MR. MEKEEL: Aye.

5 MR. CONN: Aye.

6 CHAIRMAN GIAMETTA: Aye. Minutes  
7 approved. Thank you very much,  
8 gentlemen. The applicant tonight, I  
9 believe the pronunciation is Kee Bo  
10 Med?

11 MS. BROOKS: Correct.

12 CHAIRMAN GIAMETTA: And I believe,  
13 Ms. Brooks is here to present that case  
14 to us?

15 MS. BROOKS: Yes. Applicant  
16 Keebomed is proposing to construct a  
17 storage packaging and shipping facility  
18 of veterinary supplies at the  
19 intersection of Route 9W, Old Indian  
20 Road, and Cubbard Drive. This is a

21 unique parcel in that it's surrounded  
22 on three sides by roadway, and because  
23 of that, we have three front yards all  
24 requiring a 75-foot setback. Based on  
25 the topography, we are trying to tuck

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2 the building into the base of the ledge  
3 rock, which gives us a hundred foot  
4 setback from Cubbard Drive on the  
5 southerly end of the building, but just  
6 a 50-foot setback at the northerly end,  
7 because we're running parallel with the  
8 contour of the property. Now if this  
9 were a side yard, we would be fine,  
10 because we would have the 75 feet  
11 average setback, but front yards are  
12 not measured the same way, so we need  
13 to be 75-feet at all points. We  
14 believe this is the best location for  
15 the building. That it allows for the  
16 parking in the front of the building  
17 along Route 9W, as far away from the  
18 residential properties on Cubbard Drive  
19 as possible. And the -- so that is --  
20 so you need a 25-foot area variance  
21 from section 115 -- 155-16E.

22 CHAIRMAN GIAMETTA: You want to  
23 repeat that for Ms. Cashman?

24 MS. BROOKS: 155-16E.

25 CHAIRMAN GIAMETTA: Okay.

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2 MS. BROOKS: Now, also because of  
3 the location of the property, there is

4 a provision in the code, which is  
5 155-28, B as in boy, the number 4,  
6 which says that there shall be no  
7 access within 200 feet of a school, or  
8 closer to the intersection of any two  
9 street lot lines within 500 feet.  
10 Well, we don't have 500 feet of  
11 frontage so it's impossible to meet  
12 that. I did speak with Tom Corcoran  
13 about it and he suggested that the best  
14 and cleanest way would be also to seek  
15 an area variance for that, from this  
16 board.

17 CHAIRMAN GIAMETTA: For the  
18 proximity to the intersection?

19 MS. BROOKS: Yes, because it's  
20 impossible to make a 500-foot  
21 separation from the intersection  
22 because of the configuration and  
23 location of the property.

24 CHAIRMAN GIAMETTA: And by  
25 definition, which road is the front

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2 yard?

3 MS. BROOKS: Well, that was where  
4 we had the difficulty. That's why  
5 we're here. Because of the way the  
6 code is written, I need to consider all  
7 three of them front yards.

8 CHAIRMAN GIAMETTA: I see. Mr.  
9 Salinovich, do you have any input?

10 MR. SALINOVICH: The code also  
11 says the wider of the two.

12 MS. BROOKS: Correct. There is  
13 some conflicts in the code because  
14 originally when I had met with Mr.

15 Corcoran, we had talked about, well, if  
16 we're going to make Old Indian the  
17 frontage, because that is where the  
18 access is, well, no 9W has to be  
19 frontage, so we need a rear yard  
20 setback. And then when we got Pat  
21 Klein's back, he said front yard  
22 setback because we had frontage on  
23 three roads. So I said, it doesn't  
24 matter how you slice the cheese, both  
25 of them are 75 feet, and whether I get

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2 a rear yard setback or a front yard  
3 setback, the distance is the same and  
4 the variance will be the same.  
5 MR. SALINOVICH: But the wider  
6 street is 9W?  
7 MS. BROOKS: The wider street is  
8 absolutely 9W, yes.

9 MR. SALINOVICH: That would be the  
10 front yard.  
11 MS. BROOKS: Right. And that is  
12 how Tommy and I originally looked at  
13 it. And then when we received the  
14 comment from Pat Klein, he said the lot  
15 is a corner lot, defines a lot abutting  
16 two or more streets at the intersection  
17 or upon two parts of the same street.  
18 It would therefore have three front lot  
19 lines and one rear yard setback. So he  
20 is considering the southerly lot line  
21 to be a rear yard and all of the others  
22 to be front yard. So, again, it's up  
23 to this board to make that  
24 interpretation, I know, not Pat  
25 Klein's, but that's why I called it a

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2 front yard setback. You certainly can  
3 change it to a rear yard setback if  
4 this board feels it's more appropriate.

5 MR. SALINOVICH: Tommy thought it  
6 was?

7 MS. BROOKS: Tommy and I that  
8 Cubbard Drive was the rear yard.

9 MR. SALINOVICH: I agree.

10 MR. CONN: I don't understand how  
11 we can have three front yards.

12 CHAIRMAN GIAMETTA: The zoning is  
13 HD; correct?

14 MS. BROOKS: Yes, it is.

15 CHAIRMAN GIAMETTA: Okay. And if  
16 we were to label it just for discussion  
17 purposes, the 9W as the front yard,  
18 would that change the variance request  
19 at all?

20 MS. BROOKS: No, because both the  
21 front yard and the rear yard are  
22 required as 75 feet.

23 MR. CONN: Doesn't matter what you  
24 call it if you can't get the required  
25 setback.

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2 MS. BROOKS: Right.

3 CHAIRMAN GIAMETTA: I noticed on  
4 the bulk table the summary indicates  
5 the proposed front yard setback would  
6 be 81 feet on the right column there.  
7 I interpret that to mean that the front  
8 yard is in compliance or no?

9 MS. BROOKS: We're considering the  
10 front yard to be in compliance because  
11 that's Route 9W, and the southeast  
12 corner of the building would be 81 feet  
13 from the highway taking the line of  
14 Route 9W. That's the area of the  
15 building where we would have a 100-foot  
16 setback from Cubbard.

17 CHAIRMAN GIAMETTA: Gentlemen, how  
18 do you stand as far as the labeling of  
19 the yard?

20 MR. SALINOVICH: Our map, we did  
21 say that rear yard setback was 50, and  
22 then we said required rear yard setback  
23 variance because that was my original  
24 interpretation when I submitted it,  
25 after I submitted it that is when Pat

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2 Klein gave his comments, and my map was  
3 based on me and Tommy.

4 CHAIRMAN GIAMETTA: I like the way  
5 it's handled on the bulk table, because  
6 having read that, would that mean we're  
7 only looking for possibly one variance,  
8 the rear?

9 MS. BROOKS: We're only looking  
10 for rear yard setback variance, the  
11 other variance of not being able to put  
12 a driveway within 500-foot of a road  
13 intersection, there is nothing we can  
14 do about that. I don't know why that  
15 is in the code.

16 MR. SALINOVICH: It was supposed  
17 to be taken out.

18 MS. BROOKS: There is a ton of  
19 lots that can't meet that. So there's

20 really just one variance we're seeking.  
21 MR. SALINOVICH: That's not a  
22 problem. We had that before. We just  
23 gave them a variance.  
24 CHAIRMAN GIAMETTA: So with regard  
25 to labeling the yards --

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2 MR. CONN: Leave it as it is.  
3 CHAIRMAN GIAMETTA: Leave it as it  
4 is for a rear yard request. Is that  
5 all right, gentlemen?  
6 MR. MEKEEL: That's correct.  
7 CHAIRMAN GIAMETTA: So we're  
8 labeling the Cubbard Drive side of the  
9 property as the rear yard.  
10 MR. SALINOVICH: Right.  
11 CHAIRMAN GIAMETTA: And that is  
12 sufficient by how many feet?  
13 MS. BROOKS: Twenty-five feet only  
14 at the northwest corner. So only half  
15 of the building is going to be within  
16 that setback.  
17 CHAIRMAN GIAMETTA: Okay. By  
18 labeling it that way, the front is in  
19 compliance, and the side yards are also  
20 in compliance.  
21 MS. BROOKS: That's correct.  
22 CHAIRMAN GIAMETTA: Okay.  
23 MS. BROOKS: When you're up on  
24 Cubbard Drive, you're looking over the  
25 lot. The elevation difference from the

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2 proposed building to Cubbard Drive is

3       between 28 and 30 feet.

4            MR. SALINOVICH: I know they can  
5       do it, you can do anything. It's a  
6       hardship.

7            CHAIRMAN GIAMETTA: The proposed  
8       driveway that is talked about, is that  
9       on the map?

10          MS. BROOKS: It is.

11          CHAIRMAN GIAMETTA: Okay. On the  
12       north side here?

13          MS. BROOKS: I want to discuss  
14       with the engineer and the planning  
15       boards and the applicant whether the  
16       driveway would be better served coming  
17       off on Cubbard Drive as opposed to  
18       directly on Old Indian, and it will be  
19       higher in elevation and then there will  
20       be Cubbard Drive and a new driveway  
21       coming out.

22          MR. SALINOVICH: You have a lot of  
23       tractor trailers?

24          MS. BROOKS: No, he just uses box  
25       trucks, no tractor trailers.

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2            CHAIRMAN GIAMETTA: That may be a  
3       better alternative to come off a less  
4       used street. But for our purposes this  
5       evening, if it becomes that, would we  
6       have to address that at a later date?

7            MR. CONN: I don't think so.

8            CHAIRMAN GIAMETTA: No?

9            MR. CONN: I don't think we have  
10       to address the driveway.

11          CHAIRMAN GIAMETTA: Okay.

12          MS. BROOKS: I guess I need to  
13       understand what it says more closer to

14 the intersection of any two street lot  
15 lines then 500 feet. What exactly does  
16 that mean?

17 CHAIRMAN GIAMETTA: How is it  
18 worded?

19 MS. BROOKS: There shall be no  
20 access closer to the intersection of  
21 any two street lot lines within 500  
22 feet.

23 MR. SALINOVICH: So a corner, 500  
24 feet this way, 500 feet that way.

25 CHAIRMAN GIAMETTA: So if you're

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2 adding an intersection, they don't want  
3 any entrance within 500 feet of the  
4 intersection; is that correct?

5 MR. SALINOVICH: That's correct.  
6 CHAIRMAN GIAMETTA: That's what  
7 the code reads.

8 MS. BROOKS: Which is impossible  
9 to achieve.

10 CHAIRMAN GIAMETTA: Is that in our  
11 purview tonight?

12 MR. CONN: No. I don't think we  
13 need to address that tonight.

14 MS. BROOKS: I guess I should find  
15 out from Tommy because his  
16 interpretation was that if I was coming  
17 here anyway, ask for that variance  
18 because then it's cleaner, nobody can  
19 ever raise the question later on.

20 MR. SALINOVICH: It's part of the  
21 code.

22 MR. MEKEEL: It's part of the  
23 code.

24 CHAIRMAN GIAMETTA: So no matter

25 the entrance on Old Indian or Cubbard,

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2 it still needs to be addressed.

3 MR. MEKEEL: Right, because it's

4 written in the code.

5 MS. BROOKS: No matter what it's

6 going to be within 500 feet of the

7 intersection.

8 MR. MEKEEL: What section of the

9 code is it?

10 MS. BROOKS: 155-27 B, as in Boy,

11 4.

12 MR. SALINOVICH: I think the

13 planning board handled that for us.

14 MS. BROOKS: They don't have the

15 power.

16 CHAIRMAN GIAMETTA: Just a short

17 tangent, Mobil Chestnut was deficient

18 on their square footage by a small

19 amount and we were able to help them

20 out with that.

21 MR. CONN: It was a tenth of an

22 acre short.

23 CHAIRMAN GIAMETTA: That's another

24 matter. Here we have --

25 MR. CONN: It doesn't matter where

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2 she puts the driveway, eventually it's

3 going to need to be addressed,

4 variances from the code.

5 CHAIRMAN GIAMETTA: No matter

6 where you put that driveway, Patty?

7 MS. BROOKS: Right.

8 MR. SALINOVICH: The state said  
9 you can't put it on the highway, you  
10 can't do an access lane to get in  
11 there?

12 MS. BROOKS: No, they granted one  
13 further south. We did not try to  
14 because the state has a standard, it  
15 goes town, county, state. If you have  
16 access on a lesser traveled road,  
17 you're required to use it.

18 CHAIRMAN GIAMETTA: What's the  
19 dimensions along Route 9W, how many  
20 feet is that?

21 MS. BROOKS: 400 feet.

22 CHAIRMAN GIAMETTA: Not even 500?

23 MS. BROOKS: No. No matter what  
24 you got.

25 CHAIRMAN GIAMETTA: Sounds like

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1 KEEBOMED, INC. - WORKSHOP  
2 two matters before us. Both area  
3 variances. I would think they're both  
4 areas variances, nothing about the use  
5 involvement.

6 MR. CONN: Yes.

7 CHAIRMAN GIAMETTA: Any more  
8 discussion, gentlemen?

9 MR. MEKEEL: No.

10 CHAIRMAN GIAMETTA: Questions from  
11 the design professional?

12 MS. BROOKS: No, nothing.

13 CHAIRMAN GIAMETTA: Okay. Where  
14 do we go from here?

15 MR. CONN: Public hearing.

16 CHAIRMAN GIAMETTA: A motion?

17 MR. SALINOVICH: I will make a  
18 motion that we go to public hearing.

19 CHAIRMAN GIAMETTA: Second?  
20 MR. CONN: Aye.  
21 MR. MEKEEL: Aye.  
22 MR. SALINOVICH: Aye.  
23 CHAIRMAN GIAMETTA: All in favor?  
24 MR. CONN: Aye.  
25 MR. SALINOVICH: Aye.

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1 KEEBOMED, INC. - WORKSHOP  
2 MR. MEKEEL: Aye.  
3 CHAIRMAN GIAMETTA: Yes. So,  
4 public hearing will be next.  
5 MS. BROOKS: Okay, thank you.  
6 MS. CASHMAN: Now, specifically,  
7 it will be for the rear yard variance  
8 of 25 feet on the northwest corner.  
9 CHAIRMAN GIAMETTA: And also the  
10 concern about the --  
11 MR. MEKEEL: 155-27B4 for this --  
12 MR. CONN: Relief for the  
13 driveway.  
14 MR. MEKEEL: Relief for the  
15 driveway within 500-foot.  
16 CHAIRMAN GIAMETTA: In this  
17 intersection. Is that accurate?  
18 MS. BROOKS: Yes, that is it.  
19 CHAIRMAN GIAMETTA: Anything  
20 further?  
21 MS. BROOKS: No.  
22 CHAIRMAN GIAMETTA: Gentlemen,  
23 board?  
24 (No audible response)  
25 CHAIRMAN GIAMETTA: Motion to

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2 adjourn?  
3 MR. MEKEEL: I'll make a motion to  
4 adjourn.  
5 CHAIRMAN GIAMETTA: Second?  
6 MR. SALINOVICH: A second.  
7 CHAIRMAN GIAMETTA: All in favor?  
8 MR. CONN: Aye.  
9 MR. SALINOVICH: Aye.  
10 MR. MEKEEL: Aye.  
11 CHAIRMAN GIAMETTA: Meeting is  
12 over.  
13 (Whereupon, at 6:17 P.M., the  
14 Hearing was adjourned.)

15  
16 ? ? ? ?  
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1 KEEBOMED, INC. - WORKSHOP  
2 C E R T I F I C A T E  
3  
4 STATE OF NEW YORK )  
5 : 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 1st day of July 2022.

20

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 LISA M. ROSSO

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