

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

2 -----X
3 In the Matter of

4 LIGHHOUSE HOLDINGS

5 Project No. 22-6009
6 131 Idlewild Road, Marlboro
7 Section 108.3; Block 1; Lot 21.114

8 -----X

9 FINAL - SITE PLAN

10 Date: October 3, 2022
11 Time: 7:30 p.m.
12 Place: Town of Marlborough
13 Town Hall
14 21 Milton Turnpike
15 Milton, New York 12547

16
17 BOARD MEMBERS: CHRIS BRAND, Chairman
18 CINDY LANZETTA
19 JAMES GAROFALO
20 STEVE CLARKE
21 STEPHEN JENNISON
22 JOE LOFARO

23 ALSO PRESENT: MEGHAN CLEMENTE, ESQ.
24 JEN FLYNN, PLANNING BOARD SECRETARY

25 APPLICANT'S REPRESENTATIVES: PATTI BROOKS
26 CHRIS STAFFON

27 -----X
28 Stacie Sullivan, CSR
29 staciesullivan@rocketmail.com

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

4 (Pledge of Allegiance.)

5 CHAIRMAN BRAND: Agenda, Town of
6 Marlborough Planning Board, Monday, October 3rd,
7 Regular Meeting at 7:30 p.m.

8 On the agenda tonight, one item:

9 Lighthouse Holdings for a final of their site plan
10 at 131 Idlewild Road. We also have some possible
11 discussion on the Planning Board applications.
12 The next deadline will be Friday, October 7th,
13 2022, and the next scheduled meeting, Monday,
14 October 17th, 2022.

15 First up, Lighthouse Holdings. You guys
16 can come on up. So I will defer to Meghan first.
17 And we did get some information from the attorney
18 regarding this. Do you just want to give us a
19 brief update on that?

20 MS. CLEMENTE: Sure. So given the
21 status of what happened at the last meeting from
22 the definition that was brought to us by the
23 Planning Board, the recommendations from us would
24 be to either send it to the Zoning Board of
25 Appeals for interpretation because of the

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1 differences between the two sections. There are
2 some other things you could do based on what we
3 told you this afternoon and how you want to handle
4 it.

5 The one section doesn't really refer --
6 the definition section -- let me rephrase that.
7 The specific section referring to recycled
8 agricultural buildings doesn't specifically refer
9 to the definition section. If you wanted to go
10 under a route that used that specific section and
11 then amend the -- and approve this application
12 that way and then amend the Town Code and bring
13 the two together, this would allow this to go
14 forward but then prevent the precedent that would
15 allow other applications to move forward under the
16 same sort of review process.

17 CHAIRMAN BRAND: Right.

18 MS. LANZETTA: So you are saying that we
19 can disregard the Town Code, ask the Town Board to
20 change it, so that when we approve this now, we
21 won't be approving something that's illegal?

22 MS. CLEMENTE: Well, it's not
23 necessarily illegal because of the way that -- I
24 don't know if we would view it as being illegal
25 because of the way that the two sections are

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1 written. The more specific section was written in
2 a way that expands upon the definition section and
3 makes it more specific. And if you have two
4 sections, one is more specific than the other, you
5 are, as the Board, entitled to some discretion to
6 use the more specific section when it comes to
7 determining applications.

8 MS. LANZETTA: But the definition is the
9 definition. And then the additional code is a
10 clarification -- a further clarification of that
11 definition. So, for instance, when we talk about
12 bed and breakfasts, we have been held to the
13 definition that is in our code that says we can
14 only allow the 50 percent use of that building for
15 people to visit. And we have been holding to the
16 definition on that. So I don't see what allows us
17 in this case to ignore the definition and just go
18 with the additional clarification of the code and
19 also ignoring the fact that the use regulations
20 stipulate that, in this zone, the need for
21 agricultural uses and the reason that these uses
22 are supposed to be in this area as well as what is
23 in our master plan. So those are all things that
24 are supposed to be utilized when we look at this
25 site plan before us.

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1 And so -- and I'm looking at the
2 clarification that you got from the Association of
3 Towns as well, and I will say here it says that
4 counsel for the Association of Towns says, I don't
5 see any issue with the Town relying upon a more
6 descriptive definition in its code. When it
7 relates to certain applicants or uses, they have a
8 pretty broad range of authority under Town Law
9 Section 261 so long as the definitions are applied
10 uniformly. So, again, we go back to the
11 definitions. Should we allow this to go forward
12 and ignore the definition which says that there
13 has to be a ten-year period before these buildings
14 can be recycled? What's to stop somebody from
15 building a pole barn tomorrow and then coming in
16 and wanting the same approval of the same type of
17 application as we are doing now?

18 CHAIRMAN BRAND: And that's my concern
19 as well. I think the way that I read the
20 Association of Towns was that we -- whatever we
21 decide on this application, that we need to be
22 consistent in our future deliberations in regards
23 to that. So I'm saying if we were to go ahead and
24 approve this based on what we know now, then the
25 scenario that Cindy set up is exactly what could

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1 happen in the future. So I think I'm of the
2 belief that we should definitely refer this to the
3 ZBA for their interpretation. And I think that's
4 what -- that would be my opinion. Additional
5 comments?

6 MR. GAROFALO: Mr. Chairman?

7 CHAIRMAN BRAND: Yes.

8 MR. GAROFALO: I agree that the Board
9 has broad discretion over many areas, but I think
10 in this case, if you start ignoring one
11 definition, you start opening up a total can of
12 worms, creating a precedent that will be a major
13 problem. So, in this case, I think I would tend
14 to agree with you that this should be sent to
15 the -- given the option of sending this to the
16 ZBA, and I think they certainly have a good
17 argument, based on the existing situation, that
18 this is a hardship. I do not consider the fact
19 that this was identified late in the process to be
20 a hardship because this could have been identified
21 at the public hearing. It could have been
22 identified anywhere in the process. So I do not
23 consider that to be a hardship. In fact, it
24 behooves the applicant to come in knowing these
25 kinds of things before they even get to the Board.

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1 So I don't believe that that constitutes a
2 hardship, but certainly the situation, in terms of
3 it being an accessory-type building, et cetera,
4 the history in this specific instance would give
5 pause to seeing that this is a hardship. And I
6 could see recommending to the ZBA that they, you
7 know, approve -- you know, giving a positive
8 recommendation to the ZBA.

9 CHAIRMAN BRAND: Mr. Jennison.

10 MR. JENNISON: I guess I look at this as
11 a more practical -- I understand the definition,
12 but I don't believe we rule by definitions. My
13 problem is that we're taking an agricultural
14 building and we're bringing it under the tax
15 rolls, which will pay taxes in our town. And
16 it's -- he's not bringing truck traffic every
17 single day up on Idlewild Road. It's less impact
18 than it was when the previous owner had it. So
19 I'm in favor of moving this and making a
20 recommendation to go to the ZBA.

21 MR. CLARKE: I have a question. If it's
22 not an agricultural building, which I think has
23 been determined, what was the building? What was
24 the use of the building and how was it approved?

25 MS. FLYNN: It was approved by Tommy by

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1 the Greiners saying they were using it.

2 MR. CLARKE: As?

3 MS. FLYNN: Agricultural business.

4 MS. LANZETTA: The original --

5 MS. FLYNN: He did not come in for a
6 site plan.

7 MS. LANZETTA: -- application was for a
8 house and a pole building, and they were going to
9 be working with the Greiners in their agricultural
10 operation. That's how it was presented and passed
11 as the Planning Board.

12 MR. CLARKE: Okay. So can we then say
13 it's not an agricultural building when it was
14 passed as that? And what was the date on that?
15 That's been there quite a while, hasn't it?

16 MS. LANZETTA: No. It was given a
17 building permit in 2017. It's five years old.
18 See, if you look at the -- if you had followed
19 when they set up this whole idea of recyclable
20 agricultural buildings, it was to help the farming
21 community that had old coolers in old existing
22 buildings that they wanted to be able to put into
23 some kind of commercial use so that it would
24 help -- ultimately help, you know, the farmers
25 out. So that's why it's so specific; that they

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1 wanted to make sure that we weren't encouraging
2 commercial businesses to come into the
3 agricultural areas. That this was, in essence, to
4 help existing agricultural properties that no
5 longer had those same uses.

6 MR. CLARKE: Yeah, but that also implies
7 that agriculture was no longer a viable operation.

8 MS. LANZETTA: Not necessarily.

9 MR. CLARKE: Not necessarily, but do you
10 know of a viable agricultural operation that has
11 used this? They've all gone broke, and they want
12 to recycle their buildings. And I think you're
13 going to see a lot of that in the future.

14 MS. LANZETTA: And they can as long as
15 they were actually being used as agricultural
16 buildings. And the Town --

17 MR. CLARKE: What was it being used for?

18 MS. LANZETTA: What?

19 MR. CLARKE: This building.

20 MS. LANZETTA: It wasn't used. And
21 that's the point. That's the thing that we're
22 concerned about, is that if we allow this to pass,
23 then what's to stop somebody else from coming in
24 and building another commercial building and
25 saying, oh, well, we were going to use it for

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1 agriculture, but, well, now we changed our minds,
2 so now we're going to recycle this building and
3 now we're going to have a warehouse here and a
4 garage there and --

5 MR. LOFARO: Right. And we certainly
6 want to prevent that, but it just seems like we
7 have the answer. Let's recommend it to the ZBA.
8 Let's let them do their recommendation. It seems
9 between the two of us we should be able to get
10 through this and make it work in the future, if we
11 just go through the process. I think both of us
12 seem to be on the same page.

13 CHAIRMAN BRAND: Patti, do you have
14 something to add to this discussion?

15 MS. BROOKS: Yeah. I just have a
16 question on what the interpretation would be for,
17 and am I better off just making application to the
18 Town Board with regard to the definition?
19 Because, again, Cindy is pointing out one part of
20 the definition that has the minimum of ten years,
21 but it also at the first sentence says: "A
22 structure, such as a barn, packinghouse, or cooler
23 used previously for an accessory agricultural
24 purpose..." Well, we all know that other
25 agricultural businesses have been granted

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1 approvals that have been the primary structure.
2 The one that came to mind immediately was the
3 Troncillito property on Lattintown Road. There
4 was only one large building on that property, and
5 they received approval as an agricultural recycled
6 use. So this obviously is something that was
7 caught in this particular applicant. I didn't go
8 through the Planning Board records to see how many
9 other agricultural recycled buildings there were
10 and if any of them were the principal building on
11 the lot, but I know of one that I personally was
12 involved with.

13 CHAIRMAN BRAND: When was that? When
14 was that, Patti?

15 MS. LANZETTA: I don't think Troncillito
16 has been before us for a site plan.

17 MS. BROOKS: Yes.

18 CHAIRMAN BRAND: Do you know
19 approximately when that was?

20 MS. BROOKS: No, but I can research that
21 and let you know.

22 CHAIRMAN BRAND: I don't think -- as
23 long as I've been the chair, I do not recall any
24 agricultural recycled projects coming before us.

25 MR. CLARKE: Well, there's a building on

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1 Milton Turnpike, it used to be Herschel Horton's,
2 and it is being used as a warehouse.

3 MS. BROOKS: Absolutely.

4 MR. CLARKE: I don't know if it ever had
5 approval or not.

6 CHAIRMAN BRAND: That definitely did not
7 come before us.

8 MS. LANZETTA: Yeah, these are things
9 that we don't have any control over. We're
10 talking about things that we have reviewed.

11 MS. BROOKS: But, again, I'm just
12 pointing out in the definition itself, it's
13 talking about it being an accessory agricultural
14 purpose, so I think that the definition itself, it
15 would be difficult to put the Zoning Board of
16 Appeals in a position -- you know, what kind of
17 interpretation are they making here? Are we
18 better off just going back to the Town Board where
19 the code is initiated? And, you know, I defer to
20 the Planning Board and Meghan to give me some
21 guidance in that.

22 MS. LANZETTA: I don't think you're --
23 you're referring to the separate code, the
24 recyclable agricultural buildings, which is in the
25 Zoning Code 155-21.

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1 MS. BROOKS: Yes.

2 MS. LANZETTA: That's not the
3 definition.

4 MS. BROOKS: No, no, no. I'm not. I'm
5 looking at the definition that says: Building. A
6 is Building Height. B is Building, Principal. C
7 is Building, Recyclable Agricultural.

8 MS. LANZETTA: I'm trying to -- what is
9 your question? It says it's a structure that's
10 been used previously for an accessory agricultural
11 purpose.

12 MS. BROOKS: Right.

13 MS. LANZETTA: But it also has to meet
14 the ten-year standard.

15 MS. BROOKS: But I'm saying, you're
16 pointing to one part of the code. I'm saying that
17 this is a principal structure and there have been
18 other principal structures that have been used.
19 So I'm saying it's a problem with the definition
20 in general.

21 CHAIRMAN BRAND: For sure. So -- Mr.
22 Garofalo.

23 MR. GAROFALO: I think clearly we need
24 to send a recommendation to the Town Board if for
25 no other reason that there be a footnote to

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1 connect the section on recyclable agricultural
2 buildings to the definition so that the next
3 person coming in can find it. Now, at the same
4 time, they can look at the regulation to see if
5 they want to make any other changes, but clearly,
6 as a minimum, I would like to see them add a
7 footnote so that this doesn't get missed by future
8 applicants.

9 CHAIRMAN BRAND: So I think the bottom
10 line comes to down to this, as a Board, we are
11 held by the rules of the Zoning Code, and right
12 now this project does not meet those rules the way
13 that it's laid out. We can argue that it's good
14 for the Town and that there are taxes and it's not
15 a usage, but it just doesn't -- for me, it doesn't
16 come under that. So I would like to have a motion
17 to refer this project to the ZBA. And I will be,
18 in my monthly report, asking the Town to review
19 that section of the code and the definition so
20 that in the future we don't see this. And they've
21 been very applicable -- they've been very amenable
22 to that.

23 MS. BROOKS: So you're asking them to
24 interpret what, though? This is going to get in
25 front of the ZBA, and what specifically are they

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1 interpreting?

2 CHAIRMAN BRAND: Basically this does
3 not -- we can't approve it as it is because it
4 doesn't fall under the code. It doesn't meet the
5 qualifications of the standards of the code. So
6 the ZBA could offer relief.

7 MS. LANZETTA: It would have to be a use
8 variance, and I don't think -- you know, I can't
9 speak for the ZBA, but it's hard to get a use
10 variance.

11 MS. BROOKS: I can tell you that I don't
12 believe -- I certainly would not be able to make
13 the arguments that are required for a use
14 variance. That's why I'm suggesting the Town
15 Board is the correct route. Because there's
16 really nothing for them to interpret.

17 MS. CLEMENTE: Patti, and everyone, I
18 would say to interpret the potential conflict
19 between the two sections. That's what I would say
20 the ZBA is interpreting here.

21 MS. BROOKS: Okay. And then once they
22 interpret that there is a conflict, then what is
23 the next step?

24 MS. CLEMENTE: The Town Board.

25 MS. BROOKS: So we have to go through

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1 the ZBA to get to the Town Board.

2 MS. CLEMENTE: Yes. But, ultimately, I
3 do -- our recommendation would also be to include
4 a definition in the actual section or a reference
5 to a definition -- the definition section in the
6 actual section such as Mr. Garofalo was
7 mentioning, footnote. That sort of a -- so that
8 they're connected more clearly.

9 MS. LANZETTA: And, you know, again, I
10 think we're on a slippery slope because if you
11 look at the use regulations for the rural
12 agricultural area, they don't allow warehousing
13 and these commercial establishments as even a
14 special use.

15 MS. CLEMENTE: Huh-uh.

16 MS. BROOKS: Special use Item 4 is light
17 industrial activities or businesses of a kindred
18 nature engaged in the manufacturing, processing,
19 packaging, or warehousing of agricultural and
20 related products when conducted without public
21 hazard or nuisance. That is a permitted use in
22 the RAG-1 zone.

23 MS. LANZETTA: Agricultural. As long as
24 it's agriculturally related.

25 MS. BROOKS: Well, you were saying that

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1 no warehousing was permitted.

2 MS. LANZETTA: I'm talking commercial.

3 I think I prefaced that there's no commercial uses
4 other than something related with agriculture.

5 MS. BROOKS: Right. Well, when you're
6 talking about impacts, I would think that the
7 storage of agricultural material could be
8 significantly more impactful to the neighborhood
9 than what the applicant is proposing. So just
10 when you're talking about impact --

11 MS. LANZETTA: I'm not talking -- I'm
12 talking about what's an allowed use and what's an
13 allowed special use. And if we want -- my point
14 is -- and this is, again, we're talking -- we're
15 talking about a very comprehensive change here,
16 because if you're going to take out that business
17 about the ten years or -- again, you're getting
18 away from what the Town originally was hoping to
19 accomplish here, and you're opening a door for
20 commercial applications, site plans in
21 agricultural zones. And that would require a much
22 more comprehensive change in the code, because
23 then you even have to take a look at the
24 Comprehensive Plan, which was just recently
25 updated. So it's -- it's a big undertaking,

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1 really, because you're kind of taking something
2 that originally had really looked at helping the
3 agricultural community, and you're opening up the
4 possibility to there being additional uses within
5 those agricultural areas that as of right now are
6 not permitted.

7 MR. GAROFALO: So I would like to make
8 one other point that the applicant's
9 representative may want to take a look at. In the
10 Ulster County Parcel Viewer, even though that's
11 not always accurate, it's interesting that they do
12 have this as an RAG-1 zone, but when you look
13 under the district, okay, it says no to being an
14 agricultural, and then it has q footnote of one,
15 which I don't know what it refers to, and I think
16 it may actually be -- if you look to the left of
17 that, it has COM-1 as the district. So it may be
18 a situation where the district is different from
19 the actual zone.

20 MS. BROOKS: I can explain that because
21 I did talk to the assessor about that, because I
22 had a question about it. And, evidently -- again,
23 this is, where in this particular parcel, there
24 are significant conflicts. And I can tell you
25 that the building permit and the certificate of

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1 compliance was issued for an agricultural
2 building. At some point in time, the assessor
3 became aware of the fact that there was a
4 commercial operation running out of the business.
5 She took the ag exemption away, and it's being
6 assessed currently as a commercial building.

7 MR. GAROFALO: Okay. Thank you. That
8 clears that up a little bit.

9 CHAIRMAN BRAND: So, again, I would like
10 to have a motion to recommend this to the ZBA to
11 interpret a conflict between the two sections of
12 the Town Code with the understanding that the Town
13 Board will then clarify the section of the code
14 for future review.

15 MR. CLARKE: I would make that motion.

16 CHAIRMAN BRAND: Is there a second?

17 MR. LOFARO: I'll second.

18 CHAIRMAN BRAND: Any discussion?

19 (No response.)

20 CHAIRMAN BRAND: Any objection?

21 (No response.)

22 CHAIRMAN BRAND: So that's the road
23 we're going to go down. We will refer to the ZBA.
24 Jen will submit that for us; correct? You'll do
25 that?

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1 MS. FLYNN: Yes.

2 CHAIRMAN BRAND: Jen will submit that.

3 If you have anything you feel like she needs to
4 do -- Jen, you said they meet on --

5 MS. FLYNN: They meet on the 13th, so
6 you might want to talk to Penny soon.

7 MS. BROOKS: I'm out of town on the
8 13th.

9 MR. STAFFON: So am I.

10 MS. BROOKS: We both are out of town on
11 the 13th, so we'll be looking at the next meeting.

12 CHAIRMAN BRAND: In celebration of my
13 birthday, I hope.

14 MS. BROOKS: Absolutely. For the next
15 meeting, then.

16 CHAIRMAN BRAND: We'll make the
17 referral, and we'll get it on the next meeting. I
18 will also include in my report to the Town Board
19 that we definitely need some type of clarification
20 moving forward for these types of project reviews.

21 All right.

22 MS. BROOKS: Okay. Thank you.

23 MR. GAROFALO: Mr. Chairman, I have one
24 other point, even though this is a secondary
25 point. It's been mentioned before, and I don't

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1 want to it get lost in the paperwork. And that is
2 the question of sight distance and putting that on
3 the plan and the fact that it is extremely limited
4 to the west and looking at the possibility of
5 improving that. But I understand this is a
6 secondary concern, because you're not going to
7 deal with this until after you get this other
8 issue resolved, but I want to make sure that
9 doesn't get lost in the paperwork. Thank you.

10 MS. BROOKS: Yes, thank you. It also
11 was included in the comment letter from Mr. Hines.
12 So it's still on the record and is moving forward.
13 Thank you.

14 MR. GAROFALO: Yes. It's on the record
15 from you as having been put on the plan.

16 MS. BROOKS: Yes.

17 MR. GAROFALO: Which it's not.

18 MS. BROOKS: Correct. Because at that
19 point in time it hadn't been determined where the
20 final driveway was going.

21 CHAIRMAN BRAND: All right. Thank you.
22 Go ahead, Jen.

23 MS. FLYNN: I'll do the cover letter and
24 give it to Penny, so when you fill out the
25 application, she will have that for you.

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1 MS. BROOKS: Great. Thank you.

2 CHAIRMAN BRAND: Thank you very much.

3 (Proceedings concluded.)

4 (Time noted: 7:55 p.m.)

5

6 C E R T I F I C A T E

7 I, STACIE SULLIVAN, a shorthand reporter and
8 Notary Public within and for the State of New
9 York, do hereby certify:

10 That I reported the proceedings in the
11 within-entitled matter and that the within
12 transcript is a true and accurate record to the
13 best of my knowledge and ability.

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

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand.

20 Stacie Sullivan
21 Stacie Sullivan, CSR
22
23
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25