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STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH ZONING BOARD OF APPEALS

----- X
4 In the Matter of

5

6 KEEBOMED, INC.
6 Route 9W
7 Section 103.3; Block 1; Lot 17.110

8

9 ----- X

10

11 CONTINUATION OF PUBLIC HEARING

12

13 Date: September 8, 2022
14 Time: 7:30 p.m.
15 Place: Town of Marlborough
16 Town Hall
17 21 Milton Turnpike
18 Milton, NY 12547

19

20 BOARD MEMBERS: WILLIAM GIAMETTA, Chairman
21 GEORGE SALINOVICH
22 JEFFREY MEKEEL
23 LENNY CONN

24

25 ALSO PRESENT: PENNY CASHMAN, Secretary

26

27 APPLICANT'S REPRESENTATIVE: PATRICIA BROOKS

28

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

1 K E E B O M E D , I N C .

2 CHAIRMAN GIAMETTA: Good
3 evening, everyone. Welcome to the
4 September 8th meeting of the Zoning
5 Board of Appeals.

6 Please join me for the Pledge.
7 (Pledge of allegiance.)

8 CHAIRMAN GIAMETTA: Thank you
9 very much. We're going to use our
10 microphones this evening because our
11 clerk is not here so it's going to be
12 on a recording. Please state your
13 name for the record at least once
14 before we talk. I am William
15 Giometta, Chairman. My Board Members
16 are alongside me.

17 Please announce yourself.

18 MR. CONN: Lenny Conn.

19 MR. MEKEEL: Jeff Mekeel.

20 MR. SALINOVICH: George Salinovich.

21 CHAIRMAN GIAMETTA: Thank you
22 very much.

23 We have two matters on for this
24 evening. Without further ado, we'd
25 like to ask for addressing the

1 KEEBOMED, INC.

2 minutes from July 14th. Do we have
3 any questions on those minutes?

4 MR. CONN: No.

5 MR. MEKEEL: No.

6 MR. SALINOVICH: No.

7 CHAIRMAN GIAMETTA: Having
8 heard none, I'd ask for a motion to
9 approve those minutes.

10 MR. SALINOVICH: I'll make a
11 motion to approve the minutes.

12 MR. MEKEEL: I'll second it.

13 CHAIRMAN GIAMETTA: All in favor?

14 MR. CONN: Yes.

15 MR. MEKEEL: Yes.

16 MR. SALINOVICH: Yes.

17 CHAIRMAN GIAMETTA: Yes.

18 The minutes from July 14th have
19 been approved and are part of the
20 record.

21 The first matter on this
22 evening is Keebomed, Incorporated,
23 represented by Engineer Brooks.

24 Please summarize your project
25 to us, Ms. Brooks.

1 KEEBOMED, INC.

2 MS. BROOKS: Absolutely. My
3 name is Patricia Brooks. I'm
4 representing Keebomed in their area
5 variance application for a 25 foot
6 rear yard area variance from Code 155
7 Attachment 2, Schedule 1 for a rear
8 yard setback. Also relief is sought
9 from Code 155-27 B(4) requiring
10 accesses to be no closer to an
11 intersection of two street lines than
12 500 feet.

13 The property is located on the
14 westerly side of Route 9W, the
15 southerly side of Old Indian Road.
16 It only has approximately 150 feet of
17 road frontage on Old Indian Road and
18 about 350 feet of frontage on Route
19 9W, so we cannot meet a 500 foot
20 requirement.

21 At the last meeting the
22 Planning Board -- excuse me, the
23 Zoning Board asked if I would prepare
24 a map kind of of the neighborhood
25 showing where the existing dwellings

1 K E E B O M E D , I N C .

2 of the neighbors were in relationship
3 to where the proposed building was
4 going to be placed, and also to try
5 and work with an engineer to see if
6 we could shift the northwest corner
7 of the building so that it would be
8 closer to the setbacks.

9 Right now in the southwest
10 corner of the building we have 100
11 foot setback which exceeds the
12 setback by 25 feet. The center of
13 the building is 75 feet. The
14 northwest corner of the building is
15 50 feet.

16 We've been working with an
17 engineer over the last two months to
18 try to see if we could rework the
19 building. We are seeking to reduce
20 the area variance from 25 feet to 15
21 feet and the northwest corner of the
22 building will be shifted closer to
23 9W.

24 I hope that all of you have had
25 the opportunity to go up and take a

1 K E E B O M E D , I N C .

2 look at the property and see what the
3 view was from Cubbard Lane. The
4 building on -- the most northerly
5 building is definitely like a metal
6 butler building. I don't know if
7 it's used agriculturally or
8 commercially or just a large butler
9 building. And then there is, to the
10 south of that, a building which looks
11 like it might be partially a
12 residence and partially some type of
13 a commercial building. So that is
14 our closest neighbor and the only
15 neighbor that would have any type of
16 potential view shed. Right now it's
17 very heavily vegetated in front of
18 that property and you really can't
19 see the dwelling from Cubbard Lane.
20 Also, on the easterly side of Cubbard
21 Lane is a bermed up area that kind of
22 prevents the view of this property.
23 As we had discussed at the last
24 meeting, the proposed building is
25 going to be constructed at an

1 KEEBOMED, INC.

2 elevation considerably lower than
3 Cubbard Drive.

4 CHAIRMAN GIAMETTA: Thank you,
5 Ms. Brooks.

6 A reminder that this is a
7 continuation of a previous public
8 hearing, so we still are entertaining
9 comments, questions, concerns from
10 both the Board and the public. If
11 anybody wishes to speak, please
12 announce your name first.

13 Off the record for a moment.

14 Mr. Mekeel has a question.

15 (Inaudible discussion.)

16 CHAIRMAN GIAMETTA: You've
17 heard Ms. Brooks' summary of the
18 project and the adjustment made.
19 Does anybody have any questions on
20 that or would like to comment?

21 MR. HEILWEIL: Rich Heilweil.
22 Can you just clarify what the change
23 is that you made?

24 MS. BROOKS: Yes. Right now we
25 have -- the proposed building was

1 KEEBOMED, INC.

2 oriented so that the southwest corner
3 was 100 feet from the property line
4 and the northwest corner was 50 feet.
5 We left the southwest corner where it
6 was and shifted the building to the
7 east by 10 feet. Instead of
8 requiring a 25 foot setback variance,
9 we only require a 15.

10 MR. DAVID CONN: David Conn.

11 Is the entrance now to the -- to
12 Lattintown Road?

13 MS. BROOKS: The proposed
14 access is on Old Indian Road.

15 MR. SMERDON: Don Smerdon. So
16 my question is you folks at the Board
17 told us last time that there's no way
18 for the access to be had to 9W, and
19 there's a secondary road right within
20 500 feet or something like that. Is
21 that correct?

22 MR. CONN: Correct.

23 MR. SMERDEN: Okay. So Lenny,
24 you went up and down this road
25 several times. You know how

1 K E E B O M E D , I N C .

2 dangerous that corner is.

3 MR. CONN: Yes.

4 MR. SMERDON: Since we last
5 were here I've almost gotten clocked
6 twice coming up Cubbard Drive. So is
7 there a stipulation that says how
8 many accidents have to happen in a
9 place before you could be given an
10 allocation to 9W? Is there anything
11 like that?

12 MR. CONN: I don't know what
13 the number is. We're just beholding
14 to what DOT says. In other
15 discussions I've had with Patti about
16 other projects we have going on,
17 sometimes you can't explain DOT.
18 They say if there's a secondary
19 access, a secondary road other than
20 9W, then we have to use that.

21 MR. SMERDON: Okay. So if
22 there's many accidents, I don't know
23 if you get into the future, because
24 of this entrance point, would the
25 next thing be to go to Cubbard Drive?

1 KEEBOMED, INC.

2 Would you have to go to Cubbard Drive
3 or can you go to 9W?

4 MR. CONN: I can't answer that
5 question.

6 MR. SMERDON: Can anybody up
7 there can answer that?

8 CHAIRMAN GIAMETTA: Like Mr.
9 Conn stated, DOT regulates much of
10 this access, and without applying to
11 them we will not have an answer for
12 you on that.

13 MR. SMERDON: Okay.

14 MR. CONN: I think what Ms.
15 Brooks is trying to do, what we're
16 trying to do is by granting the
17 variance of being within 500 feet of
18 an intersection of the road -- we
19 understand -- I understand what
20 you're talking about about the
21 potential for accidents by putting
22 more traffic and entrances, egress
23 and ingress, on Lattintown Road.

24 MR. SMERDON: Right.

25 MR. CONN: That being said, if

1 K E E B O M E D , I N C .

2 everything was followed to code, this
3 ingress and egress for this building
4 would be on Cubbard Drive, 500 feet
5 from the intersection of Lattintown
6 and Cubbard Drive, and that's what
7 we're trying to help everybody with.

8 I think what Ms. Brooks and her
9 design is trying to help everybody
10 with is not push all of that, what
11 could be commercial traffic, 500 feet
12 up further into your residences.

13 MR. SMERDON: Yeah.

14 MS. BROOKS: And again, this is
15 -- before this Board, obviously, is
16 the area variances. Many of the
17 issues that you're raising, perhaps
18 the Planning Board would be better
19 poised to be able to answer and
20 address it, if we get to that point,
21 because this is not going to be the
22 last bite at the apple, so to speak.
23 This is to get through the Zoning
24 Board so that the proper engineering
25 can be done and we can make

1 K E E B O M E D , I N C .

2 application to the Planning Board for
3 the actual site plan.

4 MR. HEILWEIL: Rich Heilweil
5 again. Mr. Conn, can you clarify,
6 there is no -- there is no property
7 access, from what I'm seeing, 500
8 feet up the road on Cubbard. How
9 could that even be a viable solution?
10 It goes through somebody else's
11 property.

12 MS. BROOKS: So there is road
13 frontage along Cubbard Drive, Route
14 9W and Old Indian Road. If we use
15 the road access that would provide
16 the greatest distance between an
17 intersection of the roadway, the
18 access point would be the most
19 southwesterly corner of this
20 property, which is obviously as far
21 south as you can go. It's still not
22 500 feet. It's about 450. We're not
23 proposing to change that.

24 MR. HEILWEIL: At the last
25 meeting I had asked if anybody

1 K E E B O M E D , I N C .

2 requested a variance to put it on 9W
3 and circumvent what's going to be
4 affected here. The other day two
5 tractor trailers were unloading,
6 waiting to get on 9W. Every day you
7 take your life in your hands. I know
8 a survey was done, some kind of study
9 was done back in 2017, 2018 on both
10 corridors. So I just wonder, is
11 anybody considering to request from
12 the State a variance?

13 MS. BROOKS: Yeah. At the
14 point in time that we make
15 application for site plan at the
16 Planning Board, that's generally when
17 we get DOT involved. Regardless of
18 whether the access is on Route 9W or
19 whether it's on Old Indian Road, we
20 still need that variance of 500 feet.

21 MR. HEILWEIL: Mm'hm'. Either
22 from the State or from the Town?

23 MS. BROOKS: No, no, no. We
24 need the variance from the Town
25 regardless of if the access on Old

1 KEEBOMED, INC.

2 Indian or Route 9W, because we still
3 would not make the 500 foot distance.

4 So once we -- if we get past this
5 hurdle, then the next hurdle is going
6 to be going before the Planning Board
7 and getting all the other agencies
8 involved. They won't get involved if
9 you don't even have a project.

10 MR. CONN: DOT's fallback is
11 going to be not only do you have one
12 secondary road to use, you have two
13 secondary roads to use before we give
14 you an ingress and egress off of 9W.

15 In their State Code, the State law
16 says if there's a secondary road to
17 be used, that gets first precedent.

18 Not only do we have one, we have two.
19 So you're pushing water --

20 MR. HEILWEIL: I see you moved
21 the building, so I say thank you.

22 CHAIRMAN GIAMETTA: Board
23 Members, any questions, concerns,
24 discussion, points that we should
25 bring up at this time?

1 KEEBOMED, INC.

2 (No response.)

3 CHAIRMAN GIAMETTA: We have two
4 matters before us regarding the one
5 project. We've gone over those two
6 matters.

7 MS. CASHMAN: When you vote can
8 you state who is first and who is
9 second with the vote for the
10 stenographer?

11 CHAIRMAN GIAMETTA: Yes. We'll
12 vote clearly and in order.

13 Audience, anybody else,
14 comments, questions, concerns?

15 (No response.)

16 CHAIRMAN GIAMETTA: Having
17 heard none, I'd like to have a motion
18 to close the public hearing.

19 MR. CONN: I'll make a motion.

20 CHAIRMAN GIAMETTA: A second?

21 MR. MEKEEL: I will second it.

22 CHAIRMAN GIAMETTA: All in favor?

23 MR. CONN: Yes.

24 MR. MEKEEL: Aye.

25 MR. SALINOVICH: Yes.

1 K E E B O M E D , I N C .

2 CHAIRMAN GIAMETTA: Yes.

3 The public hearing part of the
4 meeting is closed.

5 Having gotten to this point,
6 the next step for us Board Members is
7 to take a vote on the matter by way
8 of a motion. Would somebody like to
9 summarize a motion for this project?

10 MR. MEKEEL: Do we have the
11 language?

12 MR. CONN: It's right here.
13 You change the 25 and 15.

14 CHAIRMAN GIAMETTA: When a
15 Member makes the motion, state their
16 name for the record.

17 Do one of you gentlemen want to
18 make the motion, or I can pass it on
19 to Mr. Conn? Mr. Conn is going to
20 make the motion.

21 MR. CONN: I'll make a motion
22 we grant the 15 foot rear yard
23 variance request in relief from Code
24 155-27 B(4) with the access being no
25 closer than 500 feet from the

1 K E E B O M E D , I N C .

2 intersection of any two street lot
3 lines.

4 CHAIRMAN GIAMETTA: A second on
5 the motion?

6 MR. MEKEEL: I will second that
7 motion.

8 CHAIRMAN GIAMETTA: All in favor?

9 MR. MEKEEL: Jeff Mekeel.

10 CHAIRMAN GIAMETTA: Name?

11 MR. SALINOVICH: George Salinovich.

12 CHAIRMAN GIAMETTA: All in
13 favor?

14 MR. MEKEEL: Yes, Jeff Mekeel.

15 CHAIRMAN GIAMETTA: All in
16 favor?

17 MR. CONN: Yes, Lenny Conn.

18 CHAIRMAN GIAMETTA: And yes,
19 Chairman Giometta.

20 The motion is carried and
21 approved.

22 MS. BROOKS: Thank you very
23 much.

24 CHAIRMAN GIAMETTA: You're
25 quite welcome.

1 K E E B O M E D , I N C .

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 transcribed from
11 a recording provided by the Town of
12 Marlborough.

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

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand this 16th day of September 2022.

20

21

22

23

Michele Conero

24

MICHELLE CONERO

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