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

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

----- X

CONTINUATION OF PUBLIC HEARING

Date: September 8, 2022  
Time: 7:30 p.m.  
Place: Town of Marlborough  
Town Hall  
21 Milton Turnpike  
Milton, NY 12547

BOARD MEMBERS: WILLIAM GIAMETTA, Chairman  
GEORGE SALINOVICH  
JEFFREY MEKEEL  
LENNY CONN

ALSO PRESENT: PENNY CASHMAN, Secretary

APPLICANT'S REPRESENTATIVE: PATRICIA BROOKS

----- X

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

1       KEEBOMED, INC.

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 Giametta, 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       KEEBOMED, INC.

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       KEEBOMED, INC.

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       KEEBOMED, INC.

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       KEEBOMED, INC.

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       KEEBOMED, INC.

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       KEEBOMED, INC.

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       KEEBOMED, INC.

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       KEEBOMED, INC.

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 Giametta.

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       KEEBOMED, INC.

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                               *Michelle Conero*  
24

25                               \_\_\_\_\_  
MICHELLE CONERO