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MEETING HELD REMOTELY VIA ZOOM

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

----- X  
In the Matter of

DAVID & SUSAN YOUNG

Project No. 20-4002  
50 Mill House Road, Marlboro  
Section 108.4; Block 5; Lot 20.21

----- X

PUBLIC HEARING - SUBDIVISION

Date: May 18, 2020  
Time: 7:30 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
BEN TRAPANI  
CINDY LANZETTA  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE

ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: JAY SAMUELSON

----- X

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

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CHAIRMAN BRAND: For those of you that are here for the public hearing, if you could just mute your microphones, and then when it's that portion of the meeting we'll ask for you to chime in.

I'm going to start just by reading the agenda for the Town of Marlborough Planning Board, May 18, 2020. Regular meeting 7:30 p.m. We have the approval of stenographic minutes for April 20th. On the agenda this evening we have Young, David and Susan, a public hearing for their subdivision located at 50 Mill House Road in Marlboro. We have the Smith Subdivision, extension. It's obviously a subdivision. It's on First Street in Marlboro. And we have the Marlboro Flats, sketch, subdivision at 8-10 Watson Avenue in Milton. The next deadline is Friday, May 22, 2020. The next scheduled meeting is Monday, June 1, 2020.

Can I have a motion to approve the stenographic minutes for April the 20th, please?

MR. CLARKE: I'll make that motion.

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MR. LOFARO: I'll second.

CHAIRMAN BRAND: Any opposed?

(No response.)

CHAIRMAN BRAND: All right. So moved.

First on the agenda is Young, David and Susan, public hearing, subdivision.

Jen, do you have the notice?

MS. FLYNN: Yes. I sent it to you this morning.

CHAIRMAN BRAND: Yes, but I'm supposed to read it. We just need to read it.

MS. FLYNN: Oh, my God. I didn't know I had to read. "Legal notice, subdivision application. Please take notice a public hearing will be held by the Marlborough Planning Board pursuant to the State Environmental Quality Review Act (SEQRA) and Town of Marlborough Town Code 134-9 on Monday, May 18, 2020 for the following application: David and Susan Young, at 7:30 p.m. or as soon thereafter as may be heard. The applicant is seeking approval of a subdivision application which creates four lots out of two lots for lands located at 50 Mill Road, Marlboro, New York 12542. A portion of the

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property is located in the Town of Newburgh, identified by a separate street address and SBL number. This meeting and public hearing will be held remotely via Zoom, so please see the attached summary regarding access. Section 108.4, Block 5, Lot 20 and 21. Any interested parties either for or against the proposal will have an opportunity to be heard at this time. Chris Brand, Chairman, Town of Marlborough Planning Board."

CHAIRMAN BRAND: Thank you.

Before we start; Mr. Samuelson, how about the mailings for the record. How many were sent out and how many were returned?

MR. SAMUELSON: I don't know the number off the top of my head but I e-mailed them all to Jen today, the ones that were proof of mailing and the ones that were returned.

CHAIRMAN BRAND: Okay. So we'll get those numbers put in.

MR. SAMUELSON: I can pull them up in the meantime. But yeah, go ahead.

CHAIRMAN BRAND: Okay. Pat, do you want to run through your comments first?

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MR. HINES: Maybe because it's a public hearing, do we want the applicant to do a description of the project?

CHAIRMAN BRAND: Sure. Good idea. Thanks, Pat.

MS. LANZETTA: Do we have the map available while he does the explanation?

MR. SAMUELSON: I'm going to do that right now. Are you ready?

MS. LANZETTA: Thank you.

MR. SAMUELSON: So now you should be able to see the subdivision map.

CHAIRMAN BRAND: Mm'hm'.

MS. LANZETTA: Yup.

MR. SAMUELSON: All right. So to give you a brief explanation, as it was described in the notice that was mailed out, there's three existing tax lots, two in Marlborough, one in the Town of Newburgh. So there's one that encompasses this area here in the Town of Marlborough. There's a triangular piece over here in the Town of Marlborough and then there's a piece here in the Town of Newburgh.

There's an existing dwelling located

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here, which is on proposed lot 2. There's an existing dwelling here in Newburgh which is now on proposed lot 3.

What the subdivision is proposing is to create a new residential lot to the east of the existing house in Marlboro and to the west of the existing house in Newburgh. Both of the proposed dwellings will be located in the Town of Marlborough.

The lots range anywhere in size from 1.75 acres to a little over 4.25 acres.

That's pretty much the gist of it.

Both of the new lots will be serviced by well and septic, currently under review by the Ulster County Health Department.

CHAIRMAN BRAND: Great.

MS. FLYNN: There's 24 out and 19 back.

CHAIRMAN BRAND: Thank you, Jen.

MR. SAMUELSON: We did mail them to all the addresses that Pat provided for Newburgh as well.

MR. HINES: I gave them a copy of within 500 feet of the Newburgh lot as well so everyone has it. Newburgh is also going to have a

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public hearing on this in the future. I just thought it important to do the radius in both towns.

CHAIRMAN BRAND: Absolutely.

MR. SAMUELSON: And we'll do the radius of both Towns for both meetings.

CHAIRMAN BRAND: Great. Okay, Pat. You're up with the comments.

MR. SAMUELSON: Do you want me to leave it up, Pat?

MR. HINES: It will be helpful if you leave it up, sure, in case anyone has any questions. Thanks.

The plans have been revised to show the common driveway we talked about at the last meeting. Lots 3 and 4 are going to share lot 3's existing driveway and then branch off into lot 4. So that will need a common driveway easement along with an access and maintenance agreement that will be reviewed by Jeff's office for approval.

The Town of Marlborough and the Town of Newburgh Planning Board attorneys are both working out a mechanism to assure a long-term

1 nexus connection between the lots that are in the  
2 -- three of the lots that are in both  
3 municipalities/both counties. We want to make  
4 sure that they are permanently joined and are not  
5 future subdivided, foreclosed on independently,  
6 so that all of them remain connected. It's a  
7 unique situation, crossing both the Town and  
8 County line. I have seen it done before, though.  
9 It's not that unusual.

11 I provided the Board with a draft of a  
12 negative declaration. The project is considered a  
13 Type 1 action due to its proximity to the Gomez  
14 Mill House historic site.

15 A phase 1-A and B cultural resources  
16 survey of the project was performed, submitted to  
17 the Office of Parks, Recreation, Historic  
18 Preservation. A no adverse impact letter has been  
19 received, and that is in the file, for the  
20 project.

21 The other significant item is there's a  
22 potential Bald Eagle habitat. The applicant's  
23 representative had an environmental consultant  
24 analyze the site and give us a report regarding  
25 the lack of any Bald Eagle nests in the area or



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within 600 feet of the site. I believe there's also some overwintering areas associated with the Hudson River. But this is, again, away from those areas as well.

Ulster County Health Department approval for the two new septic systems is required. We discussed last time with the applicant's representative that they've done the soil testing but the Ulster County Health Department currently has a policy of not going out and witnessing them. I will talk to the applicant later on the status of that.

Then the highway superintendent had a note regarding clearing of some vegetation, I believe with the existing driveway on lot 3. We're suggesting a note be added to the plans requiring that be cleared and kept cleared. I don't know which lot the actual clearing occurs on but the note should specify -- I'm assuming it's on lot 3. It could be looking west as you come out of lot 3.

Those are our comments. The main issue for the Board is if they wish to do the negative declaration. That's a little critical in the

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process because the Town of Newburgh has a policy of not scheduling their public hearings until a negative declaration is issued. Marlborough Planning Board is the lead agency for the project, so that determination is up to this Board, and then Newburgh will follow your determination.

That's all we have on this.

CHAIRMAN BRAND: Thank you, Pat.

Jeff, do you have anything to add?

MR. BATTISTONI: I will say that I spoke with the attorney for the Town of Newburgh Planning Board. We agreed that a declaration of restrictions should be prepared here and filed in each County to assure the connection of the lots, and that notes would be added to each subdivision plat, the plat for Marlborough and the plat for Newburgh, that will cross reference each other. So I think that addresses item number 2 from Pat's letter, and that's something we'll take care of later on in the process.

CHAIRMAN BRAND: Anything from the Board before we open it up to the public?

MS. LANZETTA: I just have a question.

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I'm just curious. In regards to recreation fees, do the -- can the recreation fees be instituted by the Town of Marlborough or does Newburgh also require something in that way? How is that handled?

MR. HINES: That's a great question. I don't know the answer to that. Both municipalities do have recreation fee requirements for the creation of new lots. I will address that also with the Town of Newburgh. Both of the residential structures, the new ones, have been located in the Town of Marlborough, so it may make sense -- I may be speaking out of turn, but it seems like Marlborough will have the residence and the recreational impacts.

CHAIRMAN BRAND: That makes sense to me as well.

MS. LANZETTA: Of course.

MR. HINES: I will broach that with the Town of Newburgh. I believe this will be on the agenda on June 4th for them, and they will set their public hearing at that time if you guys do the neg dec tonight.

CHAIRMAN BRAND: Okay.

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MR. BATTISTONI: This is Jeff. I'll go a step further on that. Regardless of what Newburgh does with recreation fees, I think the Town of Marlborough has the right to assess them and should assess them. The residential structures are in the Town of Marlborough.

MR. CAUCHI: I thought it was two residential structures in the Town of Marlborough.

MR. HINES: Correct. Both of the new residences proposed. There's two existing, one of which is in the Town of Newburgh, one is in Marlborough. The two new ones are both proposed to be located in the Town of Marlborough.

MR. CAUCHI: Okay.

MR. HINES: Lot 4, the larger lot specifically, has the house put at the frontage in order to be in Marlborough/Ulster County.

CHAIRMAN BRAND: Anything else from the Board?

MR. GAROFALO: Yes. This is James Garofalo. I have a couple things. One is in the architectural review report, on page 6 it talks about discarded trucks and cars and machinery. To

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me that's a red flag that that should be investigated with an environmental assessment. I would hate to find out that there was some pollution that caused some problems with the wells. Also I can see how a bank would want to have that clarified before they do any loaning of money for property because that's a very sensitive area in terms of pollution, particularly when it has to do with wells. I'd like to see some more information on that.

The second thing --

CHAIRMAN BRAND: Can we pause right there, Mr. Garofalo, for one second?

MR. GAROFALO: Sure.

CHAIRMAN BRAND: Mr. Samuelson, you've obviously been to the property.

MR. SAMUELSON: Yes.

CHAIRMAN BRAND: Can you give us a boots-on-the-ground assessment?

MR. SAMUELSON: I honestly don't remember seeing them. If there were any, my anticipation is that they're on lot 4 because that is where the homeowner utilizes his landscaping and woodcutting business out of. So

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my guess is --

MR. HINES: That's where it was. It was in the right-of-way area there on lot 4.

MR. SAMUELSON: Say that again.

MR. HINES: It's in the right-of-way area of lot 4 where those were located.

MR. SAMUELSON: They were up here and then --

MR. HINES: Yes.

MR. SAMUELSON: Okay. I will have a conversation with the homeowner and ask for the status of that and make sure they are taken care of. I was unaware of that.

CHAIRMAN BRAND: Thank you.

Go ahead, Mr. Garofalo.

MR. GAROFALO: Okay. This is just a clean-up comment. That is, on the May 4, 2020 letter it talks about 65 STs were excavated. Please make sure that abbreviations are identified so that everybody knows that reads it that that's a shovel test. Also there are actually only 57 because 8 of them were impeded. So I think it's important just to make sure that everybody knows the facts. I don't think that's

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terribly relevant to what we're doing but I want to make sure that those things are clear and that we are aware of this going forward to encourage people not to use abbreviations.

One of the things that I noticed on lot 1 is the sight distance is 228 feet. The highway superintendent said that was okay. When you're dealing with speeds of 30 miles-an-hour, we're talking 200 feet, 35 is 250 feet for stopping sight distance. This is in between. I certainly would have preferred to see if putting the driveway on the other side of the lot would have improved that sight distance and also separated it a little bit more from the other two driveways, one of which is on the opposite side, one of which is on the same side of the road, by moving it over. I don't know if you can flip it. I don't know if that would improve the sight distance. I certainly would have liked to have seen that at least looked at to determine if we could have a much better sight distance in that area. That's certainly a safety concern. Clearly the highway superintendent has said it's okay.

On the map itself I think we need to

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show the areas that are going to be cleared so that future property owners would know I can't put trees here, I can't put things here that's going to obstruct the sight lines. So it should be actually on the maps so that it is very clear what that restriction is.

CHAIRMAN BRAND: Pat, do you have a response to that?

MR. SAMUELSON: We can absolutely have the areas of clearing on lot 3 in accordance with the highway super's comments.

MR. GAROFALO: Is that a 30 mile-an-hour road?

MR. SAMUELSON: To my knowledge, yes.

CHAIRMAN BRAND: Thank you.

Jay, maybe if you could stop screen sharing, unless one of the public hearing people need it, that way I can see everybody again and we can see if anybody from the public would like to make a comment.

So this is a public hearing. If you're here to comment on this project, you're here for or against it, just please turn on your mic, let us know who you are and fire away.



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MR. CANTONE: This is John Cantone,  
resident of Mill House Road.

I just want to say a few words in favor  
of the request by the Young family. I know them  
quite well. We were actually here in the house --  
in our house before they moved in, and we've  
known them their whole time as they've owned that  
property, added some more -- at least one more  
dwelling and their own. Two in total. I just  
want to say in general they've always been very  
good about keeping their place in good shape and  
being very mindful of the neighbors any time they  
were going to do anything. They've been very good  
neighbors and good friends. I would just say I  
would be pretty confident that whatever they're  
planning to do with the new lots would be  
following that same suit and would be nothing  
more than another improvement to the  
neighborhood. I'm speaking in favor of it.

CHAIRMAN BRAND: Thank you, Mr.  
Cantone.

MR. HINES: John, just for the record,  
we do have a stenographer, could you spell your  
last name for her?

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MR. CANTONE: Sure. C-A-N-T-O-N-E.

First name spelled J-O-H-N.

MS. CONERO: Thank you.

CHAIRMAN BRAND: Mr. Robinson, are you here for the public meeting as well?

MR. ROBINSON: Yes, sir, Mr. Brand. I had a question. I'm just curious to know, the lot that's to the east of the Young's driveway, how big is that lot?

MR. SAMUELSON: That lot is 1.94 acres.

MR. ROBINSON: So that there would be -- according to the Marlborough Code, you could put one structure on that property?

MR. SAMUELSON: Correct.

MR. ROBINSON: Thank you.

CHAIRMAN BRAND: Any other questions from the public?

Mr. Smyth, are you here for the public hearing?

MR. SMYTH: Yes.

CHAIRMAN BRAND: Yes.

MR. SMYTH: I live across the street and --

CHAIRMAN BRAND: Can you state your

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name and spell it for the Stenographer? I'm  
sorry.

MR. SMYTH: Joseph Smyth, S-M-Y-T-H.

I'm concerned about water, the property  
being cleared and runoff. Right now my front yard  
does flood, and also the orchard does flood as a  
result of the current runoff. When they  
previously built the houses on the property they  
were to put in a drainage system. That system has  
not been put in since 2006. The Town hasn't  
enforced anything about drainage on the road.

They're very nice neighbors, and if  
things were put in place I could assure you that  
I would agree with it at a different time. But  
right now, due to the drainage system, I think my  
property is only going to flood more.

CHAIRMAN BRAND: Thank you.

Pat -- or Jay, could you maybe speak to  
that a little bit as far as the topography goes  
in that area?

MR. HINES: Jay, go ahead.

MR. SAMUELSON: I was just going to --  
I was pulling up the map real quick so I  
minimized my Zoom to see what was going on.

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CHAIRMAN BRAND: Mr. Smyth, you're directly across the street from this proposed subdivision?

MR. SAMUELSON: Can you tell me which is yours? Across from which lot?

MR. SMYTH: I'm number 71 Mill House Road.

MR. SAMUELSON: You're across from the existing Young residence?

MR. SMYTH: That's correct. I'm on the lower elevation. I do flood. It's been a problem.

CHAIRMAN BRAND: It's from that -- from their property to yours across the street?

MR. SMYTH: Their property is at a higher elevation, so clearing all that land you're going to have runoff. More runoff than there is currently. I mean that's what trees and brush, you know, prevents from happening. There's a grade level.

MR. SAMUELSON: Looking at the topography, the road elevation from in front of the Young's existing dwelling and in front of Mr. Smyth's is relatively flat and there really is no

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-- there doesn't appear to be too many roadside swales there. We can look and see if some roadside swales would help some of the drainage improvements in that area. We'll take a look at that.

MR. SMYTH: Thank you.

MR. HINES: My office will, as well, take a look at that as we move forward.

MR. SMYTH: You know, it's been a number of years since the original drainage was supposed to be put in.

CHAIRMAN BRAND: What is that that you're referring to?

MR. SMYTH: When the property was first subdivided.

MR. HINES: There was a 2006 subdivision I think --

MR. SMYTH: Yes.

MR. HINES: -- of the two lots. Right?

MR. SMYTH: Yes. And the plans called for drainage. It was never put in and the Town never enforced it.

CHAIRMAN BRAND: Did you see anything like that, Pat?

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MR. HINES: I don't recall that. It was many years ago. We have those plans in my office. I will take a look at that as well as the existing conditions on the site.

MR. SMYTH: I'm also concerned about the well water. You know, I think that should be looked at as well with the vehicles. It was brought up earlier.

CHAIRMAN BRAND: Can you maybe provide a little bit of insight as to what actually is there since you live right across the street?

MR. SMYTH: There's, you know, trucks. I'm just concerned about well water.

CHAIRMAN BRAND: Are they operational? Are we talking junk trucks? What's there?

MR. SMYTH: I'm not certain what's operational and what's not.

MR. HINES: There's a lot of -- in the right-of-way area where the power lines are there's a lot of what looks like -- I think the applicants have a woodcutting operation. There were large piles of trees, and stumps, and wood that look like someone is kind of running a wood business out of it.

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CHAIRMAN BRAND: He's an arborist.

MR. HINES: Yup.

CHAIRMAN BRAND: Anything else from anyone in the public?

MR. SMYTH: I'm sorry. Can you describe the proposal a little better? I was told that the address wasn't used correctly on the notice.

MR. SAMUELSON: So I received a phone call from the applicant today saying that 50 Mill House is actually her mother's address next door and not hers. This was a mistake that we made. It's been on the application since day one. It's still the same property. 50 Mill House is actually the house that's located in Newburgh. So it's still part of the same application.

CHAIRMAN BRAND: What is the address for the subdivision?

MR. SAMUELSON: I believe the Young's house is -- I believe it's in the 70s, across from Mr. Smyth who is 71. 50 is the house that's back in Newburgh.

CHAIRMAN BRAND: Okay.

MR. HINES: It's part of this subdivision as well.

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MR. SAMUELSON: Which is part of the application as well.

MR. SMYTH: If you could go into a little bit more detail about the development and the property, because it's very hard to tell on the map from being online with this and just seeing it today.

MR. SAMUELSON: So again, there's the two existing dwellings. We're proposing two new ones, one to the east portion of the property and one to the western portion of the property. They'll both be residential dwellings. It's just two new houses and two new lots that will be for sale at some point in time.

CHAIRMAN BRAND: Does that answer your question, Mr. Smyth?

MR. SMYTH: Yes. Thank you.

CHAIRMAN BRAND: Anything else from the public?

(No response.)

CHAIRMAN BRAND: No. All right. I'd like a motion to --

MR. GAROFALO: Chris, can I make one more question?



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CHAIRMAN BRAND: Yes, please.

MR. GAROFALO: On lot number 3 it looks like there's a drive into the adjoining parcel. Is that a separate driveway, or what exactly is that? It looks like a separate driveway that's not directly off of Mill House but comes off of the driveway that goes to the Newburgh house.

MR. SAMUELSON: So the three -- the three houses that exist, there's the two that are part of this subdivision and the one that's kind of the out parcel in the middle. They're all Young family members. One is David and Susan Young. The other two are each of their parents. So there are travel ways between all the lots that they all currently use. They're all family members.

CHAIRMAN BRAND: All right. I'd like to have a motion to adjourn the public hearing, please.

MR. TRAPANI: I'll make that motion.

MR. GAROFALO: I'll second it.

CHAIRMAN BRAND: Any opposed?

MR. HINES: You're going to adjourn it you said?

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CHAIRMAN BRAND: Yes.

MR. HINES: Okay. We need to have it to a date certain then.

CHAIRMAN BRAND: To --

MS. LANZETTA: You're not going to close it?

MR. SAMUELSON: I would ask the same thing. Are you going to close the public hearing? Is there a reason to adjourn it?

CHAIRMAN BRAND: I guess we can close it.

I'll take a motion to close the public hearing.

MR. TRAPANI: I'll make that motion.

CHAIRMAN BRAND: Is there a second?

MR. GAROFALO: I'll second.

CHAIRMAN BRAND: Any opposed to closing the public hearing?

(No response.)

CHAIRMAN BRAND: Pat, do you want to just go over your negative declaration quickly?

MR. HINES: Sure. As I said before, Newburgh is going to have a separate public hearing on this. I do have the notes. In between

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now and then they will also have a stenographic record. I will look into a couple issues, the vehicles that are parked and the drainage that we talked about. I'm sure Mr. Samuelson's office will do the same, so we'll have answers at that public hearing as well.

The drafting of the declaration hits on the various items. The two major ones were the potential Bald Eagle habitat that showed up in the EAF and the Office of Parks, Recreation Historic Preservation issues. The rest of them were kind of boilerplate. Again, it's only two new houses on lots that are -- the smallest one is almost twice your minimum lot size and the larger one is 4 acres. I don't know if you want me to read this whole thing in. I think those were the major points. We didn't identify any other significant impacts for the Board in reviewing the EAF and the other information submitted.

CHAIRMAN BRAND: Jeff, did you have anything to add to the negative dec?

MR. BATTISTONI: I'll simply say that I went through it before the meeting. Pat had

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prepared it and supplied it to me. I made a couple of minor technical corrections and that was it.

CHAIRMAN BRAND: Okay. Any questions from the Board regarding the negative dec?

MS. FLYNN: I believe their address is 78.

CHAIRMAN BRAND: Thank you. I'd like to -- Jen, would you poll the Board for the negative dec.

MS. FLYNN: Chairman Brand?

CHAIRMAN BRAND: Yes.

MS. FLYNN: Member Cauchi?

MR. CAUCHI: Yes.

MS. FLYNN: Member Clarke?

MR. CLARKE: Yes.

MS. FLYNN: Member Lanzetta?

MS. LANZETTA: Yes.

MS. FLYNN: Member Lofaro?

MR. LOFARO: Yes.

MS. FLYNN: Member Trapani?

MR. TRAPANI: Yes.

MS. FLYNN: Member Garofalo?

MR. GAROFALO: Yes.

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CHAIRMAN BRAND: All right. Thank you.

I think that about does it. So they will have to hold a public hearing in Newburgh as well, Pat?

MR. HINES: They will. We talked about this. Both the attorneys, yours and Newburgh's, both concurred that it is a subdivision in both municipalities, so they both will hold a public hearing. Newburgh will most likely -- they'll be on the agenda for June 4th and they'll set the public hearing probably for the first Thursday in July at this point.

CHAIRMAN BRAND: Okay. We'll wait until that's completed before they return to us?

MR. BATTISTONI: Yes.

MR. HINES: You can. We'll be able to report back on these issues we talked about.

CHAIRMAN BRAND: Great. I think that's it.

Anything else?

(No response.)

CHAIRMAN BRAND: No. All right. Thank you, Mr. Samuelson.

Thank you to all the people who

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participated in our Zoom public hearing. It was interesting.

(Time noted: 8:00 p.m.)

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public for and within the State of New York, do hereby certify:

That hereinbefore set forth is a true record of the proceedings.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of May 2020.

*Michelle Conero*

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MICHELLE CONERO

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MEETING HELD REMOTELY VIA ZOOM

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

----- X  
In the Matter of

SMITH SUBDIVISION

Project No. 17-1017  
First Street, Marlboro  
Section 103.1; Block 4; Lot 47.130

----- X

EXTENSION - SUBDIVISION

Date: May 18, 2020  
Time: 8:00 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
BEN TRAPANI  
CINDY LANZETTA  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE

ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: JAY SAMUELSON

----- X

MICHELLE L. CONERO  
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Newburgh, New York 12550  
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CHAIRMAN BRAND: Next up on the agenda is the Smith Subdivision, extension.

Jeff, would you just run through your comments?

MR. BATTISTONI: Yes. I prepared a resolution and sent it to each of the Planning Board Members to review. This subdivision has received two extensions already. Years ago the New York State Town Law had a limit of two extensions for a final subdivision approval, but that law was amended to eliminate that limitation. The Town Code provision that addresses this is Section 134-10(f). It still has that limit of two in that code section. I talked to Pat about that. He said the Planning Board has had a history of following the amendment to the State Law to eliminate that limitation. That's what my resolution I prepared says. That's just background for the Board.

CHAIRMAN BRAND: Any comments or questions regarding the extension request?

MR. CLARKE: Is this a limit? Can they come back for four, five, six, seven or are they finally going to have to file it?



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MR. BATTISTONI: It's unlimited in the sense that the State Law removed the limitation, however these are discretionary extensions. The Board doesn't have to grant them. If you're not satisfied at some point in time, you don't have to grant an extension.

MR. SAMUELSON: I can tell you, being the engineer for this project, the plans are at the Health Department waiting to be signed. Due to the current situation of the world, the Health Department is not -- this is not high on their priority list.

CHAIRMAN BRAND: Understandable.

MS. LANZETTA: I discussed this with Al because it's my understanding that the Board -- the Planning Board and the Town Board have both had issues in the past with these extensions, and that's why they did put in the Town Code that only two extensions -- two 90-day extensions are supposed to be done. I think we -- we had talked about this before as a Planning Board, trying to stay within the framework of our Town Code and not be so loosey goosey because we find that that ends up biting us somewhere on our bodies later

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on. So as far as I'm concerned, this applicant has come before us twice already. The first time they came before us they said that the improvements were almost complete, and then when they came before us the last time they said that everything was done, they were only waiting for Mr. Rusk to file up at County, and now we're hearing that it's a different story. But the fact remains that we are in a difficult situation. I understand with the COVID emergency that this is an unusual situation. As far as I'm concerned, I would be willing to grant another extension under these circumstances, being clear that this would be the last extension that they would get, and that the only reason that we're doing this is because of this unusual situation. I think it's really important for our Town Board, for our Planning Board to follow what is in our Town Codes. With three extensions, this applicant gets almost a year of time since the time was -- since the final was approved. So I think that's more than a sufficient amount of time for these plans to be filed.

MR. HINES: It's actually more than a

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year because the first one is 180 days to start with. Yup.

MR. LOFARO: Sounds good, Cindy. I agree.

MR. HINES: We have in the past -- just to be clear, we have in the past extended these beyond the two, fairly regularly since the 2008 State Law changed, so --

CHAIRMAN BRAND: Legal question, Jeff. Can the Town Law supercede the State Law? How does that work? They can't be contradictory to each other I would imagine. Right?

MR. BATTISTONI: Quite frankly, I think the Town Law could supercede it. It could be more strict if it wanted to be. Once again I would say these extensions are always discretionary. The fact that the possibility that an extension exists doesn't mean the Board has to grant one. They could deny it if they wanted to. I do think, given these circumstances with the pandemic and shutdown and COVID-19, I think it would be reasonable to grant this one.

CHAIRMAN BRAND: Absolutely.

Mr. Garofalo, did you have something to

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add there?

MR. GAROFALO: Yes. With regard to the wording of the extension, it talks about the building inspector having questions about lot 1 and 2 access to the Town road. I would like to see in the document itself how that was resolved. The same with the comments from the chief of the Milton Fire Engine Company. To say, you know, something to the effect of that, you know, the comments were looked at and we extended or we made these turnarounds for the trucks. That there be a -- if a problem is or a question is identified, that in the extension it should be clear that it was looked at and how it was resolved or not resolved.

CHAIRMAN BRAND: Which document are you referring to, Mr. Garofalo?

MR. GAROFALO: Jeff's --

MS. LANZETTA: Resolution for extension?

MR. GAROFALO: Yeah.

CHAIRMAN BRAND: The resolution itself?

MR. GAROFALO: Yes.

And there's one other condition that I

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would like to ask the applicant to agree to, and that is I think a portion of the stonewall is being removed on the site for the driveway. If that portion can be moved to another place along the road. Basically taken from one side of the stonewall and put at the other end. Very simple thing. In my view it's an important thing to try to preserve the stonewalls in our Town.

CHAIRMAN BRAND: Mr. Samuelson?

MR. SAMUELSON: I don't see that as being an issue. I will confirm with the client but I don't see that being an issue.

CHAIRMAN BRAND: Anything else from the Board?

(No response.)

CHAIRMAN BRAND: No.

MR. CLARKE: Just make sure that the applicant understands that this is the last 90-day extension that he's going to get.

CHAIRMAN BRAND: With the assumption that things go back to somewhat normalcy to proceed. Yes.

MS. FLYNN: Are you going to update the resolution and then send it to me again?

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MR. BATTISTONI: If the Board is going to adopt this tonight, whatever changes it makes tonight, I will update the resolution after that.

MS. FLYNN: Okay.

CHAIRMAN BRAND: So then Jen, would you poll the Board for the resolution that Jeff prepared.

MS. FLYNN: Chairman Brand?

CHAIRMAN BRAND: Yes.

MS. FLYNN: Member Lanzetta?

MS. LANZETTA: Yes.

MS. FLYNN: Member Garofalo?

MR. GAROFALO: Yes.

MS. FLYNN: Member Trapani?

MR. TRAPANI: Yes.

MS. FLYNN: Member Lofaro?

MR. LOFARO: Yes.

MS. FLYNN: Member Clarke?

MR. CLARKE: Yes.

MS. FLYNN: Member Cauchi?

MR. CAUCHI: Yes.

CHAIRMAN BRAND: Excellent. Thank you.

(Time noted: 8:10 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do hereby  
certify:

That hereinbefore set forth is a  
true record of the proceedings.

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 20th day of May 2020.

  
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MICHELLE CONERO

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MEETING HELD REMOTELY VIA ZOOM

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

----- X  
In the Matter of

MARLBORO FLATS

Project No. 20-2004  
8-10 Watson Avenue, Milton  
Section 103.1; Block 3; Lot 15

----- X

SKETCH - SUBDIVISION

Date: May 18, 2020  
Time: 8:10 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
BEN TRAPANI  
CINDY LANZETTA  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE

ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: FRANK & TINA CRICCHIO

----- X

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CHAIRMAN BRAND: Next up, Marlboro  
Flats, sketch, subdivision.

Pat, did you want to run through your  
comments on this one?

MR. HINES: Is the applicant here?

CHAIRMAN BRAND: Yes, I believe so. I  
think he's working on turning on the microphone.

MR. HINES: This is a three-lot  
subdivision. There's one existing duplex on the  
site, two proposed duplexes. It's in the Milton  
Hamlet area. It's served by water and sewer.

In response to our previous comments  
the applicants have added four parking spaces to  
each of the duplexes. We're just requesting that  
they be dimensioned. They're kind of drafted on  
there different sizes and they should be  
dimensioned on the plans. Also to take a look at  
the amount of room that was provided for backing  
out of the spaces. Assuming the spaces are 20  
feet in length per the Town Code, it doesn't look  
like there's 20 feet behind the spaces to back  
up. We need to have that looked at.

A common driveway access and  
maintenance agreement will be required between

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lots 1 and 3. That will need approval from Jeff's office.

We're looking to provide a note on the plan. The Town highway superintendent has reviewed the site and requested some paving, which is, I believe, along the retaining wall in front of lot 1.

Water and sewer laterals. We need the material, size, depth and some more detail. A sign off from the water superintendent should be provided. We're just requesting the applicant's engineer take a look at the sizing of the laterals, the water laterals to serve the duplex, because of the length. We will need a sign off from Tony Falco, the water superintendent, or his designee.

Just a question, if the applicant's engineer is here, as to why there's that rather circuitous route from lot 2 to the water and sewer hookups and those utilities don't just come down lot 2's driveway?

MR. CRICCHIO: He's not here right now.

MS. CRICCHIO: He's working on that. I went over this list with him this morning and

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he's going to put that on the new maps.

MR. HINES: Otherwise you're going to need an easement to encumber that other lot. It looks like the grade works to just come down the driveway and have separate services independent of each other and not parallel and crossing those lots. That's something that needs to get looked at.

The sewer laterals are depicted on the detail as 6 inch. I just wanted to confirm that as well.

That's the extent of our comments.

This does require a public hearing. The Board would need to schedule that at some date -- I think these technical items could be worked out in the interim -- if the Board so desired.

CHAIRMAN BRAND: Jeff, did you have anything to add to that?

MR. BATTISTONI: No. I'll just simply note that Pat, in his letter, referenced the fact that I would have to review and approve certain documents. I agree with that. I'm aware of that.

MS. CRICCHIO: Do you have those documents?

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MR. BATTISTONI: I have a common driveway access and maintenance agreement document. I don't know about roadway dedication parcels.

MS. CRICCHIO: No, you don't have that. You have the one for the water and sewer easement? You have that one?

MR. BATTISTONI: Hang on one second.

MS. CRICCHIO: Okay.

MR. HINES: While Jeff is looking at that, I did have another comment. The roadway dedication parcel is not shown on lot 1 and should be. It's only shown on the flag poles of lots 2 and 3. It should be across the entire frontage.

MS. CRICCHIO: Okay.

MR. HINES: I missed that comment number 4.

CHAIRMAN BRAND: While Jeff is reviewing that paperwork, anything from the Board on this one?

MR. CLARKE: Yeah. I did a drive-by and looked at the site. It's a relatively narrow site. I was kind of wondering why we have to have

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two driveways. Why can't we have one driveway servicing all three houses? The north driveway I think could be eliminated.

MS. CRICCHIO: That would be ideal.

MR. HINES: Your code would require that to be a private road.

MR. CRICCHIO: So that would mean I would have to bring it up to Town specs?

MR. HINES: It wouldn't work on this site I don't think. You'd need a 50-foot right-of-way on a private road, a turnaround.

MR. CRICCHIO: Right. That's the reason why it wasn't going to work. Right.

MR. CLARKE: All right.

MR. HINES: That's why -- your code allows the common driveway, the sharing of the two. Once you get to three it kicks in your private road standards.

MS. CRICCHIO: Yes.

CHAIRMAN BRAND: Anything else from the Board?

MR. GAROFALO: James Garofalo. I have a couple of questions. One is to see what the width of the driveways are.

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There's a section of the driveway that's labeled as unpaved. The other ones should be labeled paved if they're going to be paved.

MR. CRICCHIO: They're both going to be paved.

MS. CRICCHIO: Eventually.

MR. GAROFALO: There's a section that was labeled as unpaved.

MR. HINES: I think that's the existing one.

MR. GAROFALO: Okay. The other thing that I had previously asked for was to know what the height of the retaining wall was and how far back it was from the edge of the roadway, because I'm concerned whether or not that's going to be a sight distance issue.

MR. CRICCHIO: The retaining wall is only two feet.

MS. CRICCHIO: It might not even be two feet.

MR. GAROFALO: Okay. Then it's not going to be a problem.

MR. CRICCHIO: No.

MS. CRICCHIO: No.

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CHAIRMAN BRAND: Anything else from the Board? Anyone?

(No response.)

CHAIRMAN BRAND: Jen, I think you can close that out. I can see everybody again.

Nothing else from the Board.

Jeff, were you able to locate the --

MR. BATTISTONI: Yeah. It's all in one agreement. It's entitled common driveway easements, utility easement and maintenance agreement. So that's -- I haven't reviewed it but it's all in the one document.

MS. LANZETTA: Would the easement stuff change if they run the water lines and the lines up the driveway? You might have to change --

MR. HINES: It will eliminate the need for the utility easement. It's often better to do that as well, to separate them, because when one water line leaks you don't know which one is leaking until you dig it up. Who is going to pay to dig it up.

MS. LANZETTA: I agree.

MR. HINES: Separate is better.

MR. CRICCHIO: There is going to be two

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different water lines going up.

MR. HINES: Right. When one leaks and you dig the trench up and they're four feet apart, you don't know whose leaking until you dig.

MR. CRICCHIO: Right. We'll keep them apart.

MR. HINES: I don't know. Was there another reason, Frank, to do that or --

MR. CRICCHIO: Run two water lines?

MR. HINES: Just to run them down the same easement rather than go down the driveways.

MR. CRICCHIO: You mean down the other driveway. I think it would be a lot easier probably because there's a hookup right there, just to go across the driveway that way, all the way up with two lines.

What are you thinking? I should go in the other driveway with the other line?

MR. HINES: Yeah. Keep the water and sewer down the other driveway separate so that they're independent, away from each other. It eliminates the need for that easement.

MR. CRICCHIO: All right. Well I mean I



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probably could do it. I'd just rather not dig up, you know, two different driveways. You follow what I'm saying?

MR. HINES: Yeah. I don't think you should put them in the same trench anyway.

MR. CRICCHIO: I mean can we put one on one side of the driveway and one on the other side of the driveway?

MR. HINES: You can. It works. I didn't know the reason. Grade wise it works to have them independent. It's up to you if you want to encumber them with an easement.

MR. CRICCHIO: Okay.

MS. CRICCHIO: That makes sense.

CHAIRMAN BRAND: Anything else on this one?

(No response.)

CHAIRMAN BRAND: Do you think the Board is comfortable scheduling a public hearing?

And Frank, you'll be able to get those changes and little technical things worked out?

MS. CRICCHIO: Yes.

MR. CRICCHIO: Absolutely.

CHAIRMAN BRAND: Jen, when would that

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be?

MS. FLYNN: June 15th.

CHAIRMAN BRAND: Everybody is comfortable with that for June 15th?

June 15th, not June 1st?

MS. FLYNN: I don't have enough time to put it in the paper for June 1st.

CHAIRMAN BRAND: Okay. So public hearing scheduled for June 15th.

You'll do the mailings and all that good stuff. Excellent.

Anything else on that?

(No response.)

CHAIRMAN BRAND: Anything else -- thanks, guys. We'll see you later. No wine tonight. I'm a little upset with that.

MR. HINES: It might be off to the side.

MS. CRICCHIO: Right. It's out of sight.

MR. CRICCHIO: Thanks very much.

MS. CRICCHIO: Thank you. Good night.

CHAIRMAN BRAND: Anything else from the Board before we adjourn?

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(No response.)

CHAIRMAN BRAND: No. Everybody is  
doing good?

MR. LOFARO: All good.

MS. LANZETTA: Yes.

CHAIRMAN BRAND: How about a motion to  
adjourn?

MR. LOFARO: I'll make a motion to  
adjourn.

MR. CAUCHI: Second.

CHAIRMAN BRAND: Any opposed?

(No response.)

CHAIRMAN BRAND: Excellent. See you  
later.

(Time noted: 8:20 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do hereby  
certify:

That hereinbefore set forth is a  
true record of the proceedings.

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 20th day of May 2020.

*Michelle Conero*

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MICHELLE CONERO