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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

DZIEGELEWSKI AIRBNB

Project No. 21-5006  
95 Millhouse Road, Marlboro  
Section 108.4; Block 5; Lot 25.400

----- X

PUBLIC HEARING - SITE PLAN

Date: June 21, 2021  
Time: 7:30 p.m.

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

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

APPLICANT'S REPRESENTATIVE: MICHAEL DZIEGELEWSKI

----- X

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

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CHAIRMAN BRAND: It is 7:30 so I'd like to call the meeting to order by reading the agenda. Agenda, Town of Marlborough Planning Board, June 21, 2021. Regular meeting at 7:30 p.m. On the agenda tonight we have the Dziegelewski Airbnb at 95 Millhouse Road in Marlboro for a public hearing of their site plan. We also have Lanzetta, Reservoir Road, lot line, sketch. We have a discussion with the engineer for Keebomed, Incorporated, a discussion of their site plan at the intersection of Old Indian Road and 9W. The next deadline is Friday, June 25th. The agenda says the next scheduled meeting will be Monday, July 5th, but we are going to not have that meeting.

The next meeting will be when, Jen?

MS. FLYNN: July 19th.

CHAIRMAN BRAND: July 19th will be the next meeting. So the deadline for that meeting will change.

First up we have the Dziegelewski

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Airbnb at 95 Millhouse Road in Marlboro.

MS. LANZETTA: Chris, can I just interject? Before I forget, I want to add that I had attended the Scenic Resource Protection webinar that the DEC put on. That was good for an hour and fifteen minutes.

CHAIRMAN BRAND: Great. Thank you. I always forget to do that, Cindy.

MS. LANZETTA: That's all right. If I don't remember I won't remember.

CHAIRMAN BRAND: Anything else before we jump into the Airbnb?

(No response.)

CHAIRMAN BRAND: No. Good. So Airbnb, the Dziegelewski public hearing. Is their representative here this evening?

MR. DZIEGELEWSKI: Hi there. This is Mike.

CHAIRMAN BRAND: Hi, Mike. How are you?

MR. DZIEGELEWSKI: Good.

CHAIRMAN BRAND: Great. Before

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we open the public hearing do you want to just give a brief overview of what it is that you have proposed?

MR. DZIEGELEWSKI: Yes. So I have the site plan that I sent out as far as outside the building. It is an R-1 residential home. I do have two apartments connected to the main house. My wife and twins live in the main house.

I'm proposing one unit, which is a one bedroom, to be used for Airbnb, and also another unit, which is a two bedroom, to be used as Airbnb.

I also have the narrative explained on the floor plan which was also submitted to the Board, parking spaces included in the outside site plan. The floor plan includes bedrooms, bathrooms, egresses and such for that which was included.

That's what I'm applying for today.

CHAIRMAN BRAND: Great. Thank you.

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2                   So that being said, legal notice  
3                   for the site plan application. "Please  
4                   take notice a public hearing will be held  
5                   by the Marlborough Planning Board pursuant  
6                   to the State Environmental Quality Review  
7                   Act, or SEQRA, and Town of Marlborough  
8                   Town Code Section 155.31 on Monday,  
9                   June 21, 2021 for the following  
10                  application of the Dziegelewski Airbnb.  
11                  Due to health and public safety concerns  
12                  related to COVID-19 and pursuant to the  
13                  Executive Orders from the governor, this  
14                  meeting and public hearing will be held  
15                  remotely via Zoom. This meeting password  
16                  as well as the call in information will be  
17                  available on the Town website or from the  
18                  Planning Board Secretary. The public  
19                  hearing will be at 7:30 p.m. for lands  
20                  located at 95 Millhouse Road in Marlboro,  
21                  Section 108.5; Block 5; Lot 25.400. Any  
22                  interested parties either for or against  
23                  this proposal will have an opportunity to  
24                  be heard at this time. Chris Brand,  
25                  Chairman, Town of Marlborough Planning

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Board."

Before I do open up to the public; Pat, would you just run through your comments?

MS. FLYNN: I'm sorry. How many went out and how many came back of your notices?

CHAIRMAN BRAND: Mr. Dziegelewski, that question is to you.

MR. DZIEGELEWSKI: Okay. I'm just looking at a copy made of that. I had the certification of sending those. I just had to get a number for you of the amount that went out. Let me see here. Here it is. I included copies of the certified letters with my paperwork. One, two, three -- seven.

CHAIRMAN BRAND: Seven were sent out?

MR. DZIEGELEWSKI: Yes.

CHAIRMAN BRAND: And were any returned undeliverable or anything like that?

MR. DZIEGELEWSKI: No. I didn't

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get anything.

CHAIRMAN BRAND: All delivered.

Okay. Thank you.

Pat, go ahead whenever you're ready.

MR. HINES: We have a couple of comments. The plans were revised on April 14th depicting the layout of the structure as well as providing the bulk requirements we had asked for.

The project is before us tonight for a public hearing on the short-term rental law.

We requested last time that the applicant clarify access to the basement floor plan. There was no sidewalk or access there, so we had asked that be depicted. I think Mr. Garofalo actually asked that.

The Town's short-term rental law has certain sections, letters A through M, that must be complied with. We're suggesting these be added to the resolution. I know Jeff and I took a look

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at that resolution together and it's been revised accordingly.

My comment 5 just identifies that the Board's review of the short-term rentals based on the ordinance that was adopted is limited to those items identified in my comment 5, finding that the proposed use complies with applicable zoning standards, conforms with the Town's planning goals and objectives as expressed in the comprehensive plan and is sufficiently served by services, utilities and infrastructure. So there's kind of a preamble in the ordinance there that tells you what the Planning Board's role in reviewing that is to try to identify a streamlined process.

We have the narrative description that was submitted.

The Planning Board has the ability to waive any of the sections in Section 4. There's a list of things that have been incorporated in the narrative consistent with Section 4 or B.



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For some reason the recording stopped? Was that on everyone's or just mine?

CHAIRMAN BRAND: That was everyone. Let me see if I can do that again. All right.

MR. HINES: The final item is that this does require a permit from the Town's Building Department. Subsequent to any approvals the Board grants, the Building Department has a permit process to make sure it complies with their various codes and regulations.

That's all we have.

CHAIRMAN BRAND: Great. Thank you, Pat.

Anything from the Board before I open it up to the public?

(No response.)

CHAIRMAN BRAND: Jeff, did you have anything to add before I open it up?

MR. BATTISTONI: I will say that I prepared a proposed resolution for the Board to have ahead of time. Obviously

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the public hearing still has to be held,  
and we'll see what comments are made. The  
application originally was for an Airbnb,  
and as it went along it was modified to be  
for a short-term rental under the new  
short-term rental law of the Town. The  
resolution that I prepared has various  
conditions which mirror the items that  
were referenced in Pat's letter.

CHAIRMAN BRAND: Great. Thank  
you.

MS. LANZETTA: I do have a few  
concerns and comments from the new  
information that we received. First of  
all, I think the application that was  
submitted, which will be actually reviewed  
by the building inspector, I think it  
needs to be redone because right now you  
have written down that there will be six  
bedrooms and six bathrooms, and I don't  
think that's correct. That got me  
wondering and I got online and I was  
looking at the short-term rentals as they  
are advertised now. For that northern --

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the northern piece that you're looking to rent, you have down that there is just one bath and a master bedroom. On the rental site it says that you have a half bath with that master bedroom and that you are also using the storage area as a bedroom. I think that needs to be clarified because the Town will charge, you know, the appropriate fees based on the amount of bedrooms that you are renting out. I want to be clear as to what bedrooms are going to be rented out there, what is considered a bedroom.

MR. DZIEGELEWSKI: Yup. The north side, that's one bedroom. So if it's listed as two, that's a mistake. But there is a full bath off the living room, and that's on the plan. There's a half bath off the one -- that's why I call it master bedroom. So it's 1.5.

MS. LANZETTA: The storage area shows two bunk beds and you're renting it -- you've rented it previously as a bedroom. I want to make sure that either

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is not a --

MR. DZIEGELEWSKI: That should be -- if you look at the current listing, it should be one bedroom. If it was not previously, that would be a mistake.

MS. LANZETTA: Okay. Well that was on the vacation rentals. So as long as we're clear, because if the inspector was to get a call and have to go inspect that and it is being used as a bedroom, then that would not be a good situation for you.

MR. DZIEGELEWSKI: Yeah. Absolutely. The zoning rule is each bedroom has to have a closet. Right?

MS. LANZETTA: Well I'm talking about in terms of short-term rental. You know, when you apply you're going to pay a fee based on the amount of bedrooms that you advertise as rentals. So if you're not disclosing all of those bedrooms to the building inspector, there's going to be a problem there, and also for us because we're approving basically only the

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single bedroom on that side of the house.

MR. DZIEGELEWSKI: Correct.

MS. LANZETTA: So I want to -- I just wanted to be clear on that.

So we're approving the use -- the possibility of up to ten people -- well, no. It would be up to eight people using -- if you rented both of them out at the same time. Right now you're saying that in the basement area you sleep six and in the master bedroom, the one that I saw, you sleep four. But now you're saying you're going to remove the bunk beds, so that would be two.

MR. DZIEGELEWSKI: Yeah. It's two per bed.

MS. LANZETTA: Right.

MR. DZIEGELEWSKI: We do have a pull out couch, but I'm going by bed. Two per bed.

MS. LANZETTA: Well I mean we go by bedrooms. I'm just trying to get a sense of how many people might be utilizing it. As I've seen it advertised,

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I would expect then probably eight people at the most if both of the areas are utilized.

MR. DZIEGELEWSKI: Sure. And I would refer to the current listing. We are officially listed on Airbnb and VRBO. I say officially because that's the only sites we gave permission to to list. The secondary websites do get information. I don't know --

MS. LANZETTA: I was looking at VRBO.

MR. DZIEGELEWSKI: Okay, VRBO. And that should be up to date.

MS. LANZETTA: Well I guess it shows the bunk beds.

MR. DZIEGELEWSKI: Yeah. Okay.

MS. LANZETTA: So I just -- so we're clear that that storage space will not turn into bunk beds. Right?

MR. DZIEGELEWSKI: Yes. And that's listed on the site plan.

MS. LANZETTA: Okay. Thank you.

MR. GAROFALO: I have a question.

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The stairs in the basement, where does that actually lead to?

MR. DZIEGELEWSKI: To the side of the house, the stairs. That's the south part of the house.

MR. GAROFALO: On the basement floor plan there's an area marked stairs.

MR. DZIEGELEWSKI: Oh, those stairs lead up to the back door here to the house on the first floor. Yeah.

MR. GAROFALO: Okay. And to make it a point about the bedrooms, the bedrooms also affect the number of parking spaces, although you would be actually in compliance because it's two for the main house and then one per each bedroom. So you would actually still be in compliance. For other people that may be listening to your application, that is also a factor in the number of bedrooms, is you need to have the parking spaces, which you do have the parking spaces for.

MR. DZIEGELEWSKI: Yes. Including owner occupied. Right.

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CHAIRMAN BRAND: Is that all,  
James? James?

MR. GAROFALO: Are there stairs  
leading up to the second floor?

MR. DZIEGELEWSKI: Yeah, yeah.  
There's stairs leading up. Right now I do  
-- I'm looking. I'd have to ask I think  
at the permit process or this venue here  
about an opening of those stairs. Right  
now we have a temporary cover block over  
those stairs leading up, but they can  
easily be opened up. I just want to make  
sure I'm in compliance with that, too.

MR. HINES: So that layout, those  
are more building code. The building  
inspector, after this process, is going to  
review the building code issues for fire  
egress and that kind of --

MR. DZIEGELEWSKI: Right.

CHAIRMAN BRAND: Anything else  
from the Board?

MR. GAROFALO: Thank you.

MS. LANZETTA: I just have a  
question. Maybe it's for Jeff. Looking



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at the application that he's filling out for the short-term rental, he has a choice of a single-family home or a bed and breakfast. I think since we changed the application to short-term rental, should it therefore be considered a single-family home?

MR. BATTISTONI: I'm just pulling out the short-term rental form for a moment. "A short-term rental. The rental by a tenant of all or part of a furnished, self-contained, detached dwelling unit for a period of 30 days or less, fee title to which is owned by the person who, one, owns fee title to and, two, permanently resides at the short-term rental unit or dwelling unit which is next door to or directly across the street from the short-term rental unit." So is this particular owner residing at this?

MS. LANZETTA: Yes.

MR. BATTISTONI: So then is your question whether this should be listed as a single-family home?

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MS. LANZETTA: You have a choice of either listing it as a single-family home or a bed and breakfast. I thought we were thinking a bed and breakfast more in terms of a home occupation, a building where people actually serve breakfast. Am I correct?

MR. BATTISTONI: I probably would list this as a single-family home.

MR. DZIEGELEWSKI: I kept the B&B status as of our last meeting because I had the over fifty percent rule owner occupied. So I mean right now it's R-1 they call it. It's not multi -- it's the 1 plus zone. You may be more familiar with this than I am.

MS. LANZETTA: I think what we're saying is that since you prefer the short-term rental designation, that it might be more properly listed on the application as a single-family home.

MR. DZIEGELEWSKI: Okay.

MS. LANZETTA: We're trying to understand this all, too. It's all new to

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us.

MR. DZIEGELEWSKI: Yeah, because I mean I guess I want to keep my R-1 status.

MS. LANZETTA: It doesn't affect that.

MR. DZIEGELEWSKI: It doesn't matter?

MS. LANZETTA: No.

MR. DZIEGELEWSKI: Okay.

CHAIRMAN BRAND: I guess at this time I will open it up to the public. Everyone will have an opportunity to be heard. Please just unmute yourself and be patient, one at a time. Just state your name for the stenographer, please.

MR. CANTONE: This is John Cantone, 85 Millhouse Road. A couple points and questions here.

First of all, I don't know which seven people got certified mail, but I live on 85, which is a couple doors down, and I never received one. I would be interested to know who those seven folks

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are, if anybody from Millhouse Road was actually included.

Secondly, I've been here seventeen, eighteen years and I don't recall ever seeing a variance on that property for multi-family dwelling. I think I'm hearing an R-1 zone, which I think that means residential. So a question to the Board is typically I would see a history of other places where I lived, variances being applied from turning a single-family into a multi-family which I've never seen since I'm here. I'm curious, what are we actually -- what is actually being reviewed here? Are we jumping straight from a single family to a short-term rental permit or variance of zoning? What exactly is the Town reviewing here? Since I didn't get any communication, I'm a little bit unclear as to what's really happening. Again, I've always known it to be residential. It seems like a big jump from where we are now to a short-term

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rental without any prior communication of rezoning, or whatever else goes into the legal aspect.

CHAIRMAN BRAND: Pat or Jeff, maybe you can jump in if I'm incorrect, but the Town recently passed a new short-term rental law which allows this use in that zone. So it's not a multi-family home, it's just he's renting sections of the home out under this new law.

MR. HINES: The house is -- I can jump in. The house is listed as a duplex, a two-family house in the Town's tax records. Clearly there is a two-family use occurring there right now. That is allowed. The short-term rental is allowed in either a single-family or a duplex. It is not allowed in multi-family houses by definition.

MR. CANTONE: Okay. Thank you for clarifying that. To my first question, the seven letters that went out, what was that for? Just notification that this permit was being requested and

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opening it up for folks to make comment?  
I just happened to look at the agenda  
tonight and noticed it was there, and  
other neighbors did as well. I'm just  
curious what that was for.

MR. DZIEGELEWSKI: Yeah. Sorry,  
John. I didn't send you one. I did send  
Anthony Delvecchia at 86 Millhouse, J.  
Magliato at 91 Millhouse, and then the  
rest on Old Post Road. Sorry you didn't  
receive one.

MR. HINES: There's a distance  
requirement. It's not everyone. It's  
within 500 feet from the property line  
gets notified.

MR. CANTONE: So if I was to get  
one, or whoever did get it, that was just  
basically a notification that this hearing  
was happening today?

MR. HINES: It's a copy of the  
public hearing notice that was published  
in the newspaper.

MR. CANTONE: I got you. Okay.

CHAIRMAN BRAND: Anyone else to

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  speak either for or against or have a  
  question?

    I'll give it a minute. Does  
  anyone else care to ask a question or have  
  a comment?

    (No response.)

    CHAIRMAN BRAND: No. Okay. I  
  guess at this time I would take a motion  
  to close the public hearing.

    MS. SKURNICK: Hold one second,  
  please.

    CHAIRMAN BRAND: Of course.

    MS. SKURNICK: Sorry. I'm not  
  fast enough on the technology here. I  
  just have a question. My name is Janine  
  Skurnick. I'm at 87 Millhouse which is  
  kind of next door. We must be at 501 feet  
  because we didn't get a letter either.

    I'm curious as to why -- if this  
  is like under review now, why is it  
  allowed to be advertised and rented  
  without anything being approved yet?

    MR. HINES: I think that's how it  
  got here, as an enforcement referral. It

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should not be rented yet. It doesn't have approval.

MS. SKURNICK: Well I believe it has been rented.

MR. HINES: Again, that's beyond this Board. That's an enforcement issue with the Town's code enforcement officer.

CHAIRMAN BRAND: I think that's how they got here before us, was there was a review of some people that were renting without approvals. They were asked to come before the Board for the formal approval process.

MR. CLARKE: Chris, you know, before this there was no approval because there was no regulation. So they probably were not out of compliance because there was no regulation. Now there is.

CHAIRMAN BRAND: We did have the B&B law, but other than that there was no -- I don't think -- there was really nothing.

Did I answer your question, Ms. Skurnick?



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MS. SKURNICK: Not really. So I understand that before the short-term rental was passed, that he wasn't out of compliance. Now that it is passed, is it out of compliance if it's being rented until the approval goes through?

MR. HINES: Yes.

MS. SKURNICK: And so then who do we talk to if it's being rented before the approval?

CHAIRMAN BRAND: That would be the code enforcement officer, Tommy Corcoran. Thomas Corcoran.

MS. SKURNICK: Okay. Because there's been bonfires, there's been loud everything, there's been fireworks. There's been all sorts of stuff happening over there, so --

CHAIRMAN BRAND: Could that have just been the residents?

MR. DZIEGELEWSKI: That was me.

MS. SKURNICK: No, no, no.

MR. DZIEGELEWSKI: We're not allowed -- we didn't allow anyone to start

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any fires, so that was me at the residence.

MS. SKURNICK: So you've made the fires every single weekend that are burning all the way up to the top of the pine trees -- or the bottom of the pine trees rather?

MR. DZIEGELEWSKI: It's a firepit. I go out there with my wife and we have a fire. Yup. Pretty nice.

MS. SKURNICK: All right. We'll have to see about that. I'll come over and say hello next time.

MR. DZIEGELEWSKI: Thank you.

MR. CANTONE: This is John again. I have a question again. What's the order of procedure here? So the code enforcement was obviously involved at the beginning to bring it here, or wind up bringing it here. Now we're sitting in front of the Board I believe for approval for a permit or approval to move forward. I still don't know exactly what is the outcome of tonight or whatever comes next.

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Where does the code enforcement fit into here? I just heard a couple different things, first that it is zoned as a duplex, but yet I also heard there's three apartments. I know it's been rented for years, long before Mr. Dziegelewski ever owned it. So I'm wondering if it was out of compliance in terms of the proper zoning or number of apartments for X number of years? If we're here because of a code compliance issue that identified the fact that it was a short-term rental being performed without being in compliance, then where are we? Maybe someone can tell me, where are we? What's the next steps? Does this permit happen first and then code enforcement comes in and makes sure there's safety and fire and all that happens next or does one happen before the other?

CHAIRMAN BRAND: Basically they went to the code enforcement officer -- they submitted an application that was reviewed by the code enforcement officer

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who said it could be presented to the Board for review. We had -- I believe this is the third meeting that they've been to. Am I wrong? Second or third, at least, that they've been here --

MS. STURNICK: I'm sorry to interrupt. I have a neighbor calling me that they're in the waiting room and they're unable to get in.

CHAIRMAN BRAND: Okay. Let me check.

After the approval takes place, then they would have to get the proper (inaudible) and review, and then they would be able to operate.

Did I get all of that right, Jeff, Pat, perhaps?

MR. HINES: Yes. This is the first one for us on the learning curve as well.

CHAIRMAN BRAND: And there will be several more. I believe the code enforcement officer did a review of advertised Airbnbs in Marlborough and sent

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them all notices that they needed to come before the Board for review in order to operate.

Did that answer your question, Mr. Cantone?

MR. CANTONE: It does. I guess I'm concerned, and I don't mean to be an aggressive neighbor, but I'm concerned it's already being run out of compliance. It doesn't seem like there's an enforcement of, you know, keeping the rentals empty until this is closed. Not that I --

MR. BOB MAGLIATO: Hello. Hello.

CHAIRMAN BRAND: I hear you. Someone is speaking right now. I'll be with you in one minute, sir.

MR. BOB MAGLIATO: Hold on, hold on. There seems to be a problem. The Magliottos are unable to enter or just getting in now. We were in the waiting room and nobody ever let us in.

CHAIRMAN BRAND: Okay. So we will let you in shortly. We're checking

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that periodically.

MR. BOB MAGLIATO: All right.

Thank you. I appreciate it.

CHAIRMAN BRAND: You're welcome.

I'm sorry, Mr. Cantone.

MR. CANTONE: My last comment was going to be I'm not trying to begrudge Mr. Dziegelewski from making money, especially if this becomes legal, it just seems like the order is reversed. We have rentals, we have advertisements, we have code enforcement identifying it, we're here for a permit, but yet it's still rented out. I would think that at a minimum it should be held out for awhile until this is closed.

CHAIRMAN BRAND: As far as I know he should not be renting it until he receives all the approvals and permitting.

MR. DZIEGELEWSKI: We have no occupancy at this time, just to let everyone know.

MR. CANTONE: Okay. It was implied in the conversations that you

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were. That's why I was asking. I personally can't tell if you do or you don't the few times I drive by, but --

MR. DZIEGELEWSKI: Yup.

CHAIRMAN BRAND: Okay. So is there anyone else here to speak?

MR. BOB MAGLIATO: Hello. Can you hear? Bob Magliato.

CHAIRMAN BRAND: I can hear, yes.

MR. BOB MAGLIATO: We've been trying to get in to answer a lot of questions that have been arising and now we've missed a lot of the conversation. I'm just going to go ahead and speak my piece and let it go from there. You're going to have to give me a little time and maybe this will shed some light on some things. Are we ready?

CHAIRMAN BRAND: I'm as ready as I will be, Mr. Magliato.

MR. BOB MAGLIATO: Okay. First of all, that property -- when that home was built, it was built as a 210 which is a single-family home with a

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2 mother/daughter on the north side of the  
3 building. It was built on one acre of  
4 property but they own the additional lot  
5 next door which is an additional one acre  
6 for a total of two acres. When they got  
7 the C of O from the building inspector, at  
8 that time they were given two C of Os, one  
9 is a 210, single family, mother/daughter,  
10 and one is a 220, two-family home, if they  
11 combined the lots. The two lots were  
12 never combined. They somehow or other got  
13 it recognized as a 220. They have since,  
14 in the last few years, sold off that lot.  
15 They're down to one acre. That lot was  
16 sold so now they're sitting there as a  
17 220. It can only be 210 with one acre  
18 zoning. The mother/daughter (inaudible)  
19 talking the side of the building. So it  
20 was approved as a mother/daughter unit.  
21 They had that as a family member until  
22 that family member died, then it was  
23 illegally rented out to the general public  
24 for years. While that was being illegally  
25 rented out, they went ahead and built the



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downstairs apartment which was illegally done. Then a family member moved into the north side of the house making it legal as a mother/ daughter unit since it was a family member. Then they proceeded to get ready to sell the house. When they sold the house they had to do something with the downstairs unit because they never got a permit for it. So the code enforcement officer went there, reviewed it. To save them from having to rip everything out, he approved it as a summer kitchen. I repeat, a summer kitchen. The certificate of occupancy for that is number 19-162, and it reads specifically, "Basement renovation. A full bathroom, a family room and a den office. No sleeping quarters allowed."

Then you talked a little while ago about the stairs that go into the main house. The code enforcement officer, Tommy Corcoran, supposedly asked that that thing be opened up so that downstairs unit becomes a part of the main house upstairs.

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It's strictly, again, a family room with a full bathroom and a kitchen, and it's not for sleeping quarters. So that's what's arisen as this thing went along. I don't know how he can even be asking for that south unit to be used for a short-term rental with bedrooms in it when it doesn't have an approval for bedrooms at all.

CHAIRMAN BRAND: Pat, do you have anything on that?

MR. HINES: I think all of these issues are subject to the code enforcement officer. Again, your review for the short-term rental is limited to those items. I hear you.

MR. BOB MAGLIATO: (Inaudible.)

MR. HINES: I hear you. Again, the issues that -- code enforcement issues are outside the scope of this Board. If in fact this Board entertains this application and/or approves it, there is a process in the short-term rental ordinance where they have to apply to the Town Building Department for a permit which

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will address any and all code issues. I do note that the code enforcement officer, as the gatekeeper, has allowed this to appear before this Board.

MS. LANZETTA: And it says in the regulations here that all short-term rental units must comply with New York State Building Code requirements.

MR. HINES: They're going to need all the fire escapes, the proper windows. That's code enforcement's job. That's one of the reasons why this ordinance was put into place, is previously there was no ability to do inspections in the single-family homes and/or duplexes that were being rented out. Now, because of this ordinance, it gives the code enforcement officer the ability to access and inspect.

CHAIRMAN BRAND: And if he fails the inspection, then?

MR. HINES: Then Tommy doesn't give him the permit.

CHAIRMAN BRAND: And he wouldn't

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be able to rent it?

MR. HINES: Correct. Or he'd have to make modifications to meet the code.

CHAIRMAN BRAND: Right.

MR. HINES: We see that all the time.

MR. BOB MAGLIATO: I personally believe we're on a slippery slope here where we've got houses that have mother/daughter setups in them and all of a sudden -- they're now approved by law to be mother/daughter and we're now using it as short-term rentals. There's something wrong with that.

MR. HINES: According to this ordinance, any single-family residence in the Town, if they go through this process, can become a short-term rental.

MR. BOB MAGLIATO: I can understand if you've got a home and you've got four bedrooms in it and you decide to rent out one of those bedrooms, it's approved and you're renting it out as a

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short-term rental. I can't understand how you can take something like a mother/daughter, which is an approved unit within a house only to be used by a family member, and make that --

MR. HINES: We don't have anything in our code that says something has to be used by a family member. That is not in the code.

CHAIRMAN BRAND: Is anyone else from the public here to speak this evening?

MR. JEFF MAGLIATO: This is Jeff Magliato, 91 Millhouse.

CHAIRMAN BRAND: Go ahead.

MR. JEFF MAGLIATO: So first off, on a general note I'd just like to say I appreciate the underlying issues that the Town Board and the Planning Board have faced regarding this entire Airbnb and VRBO phenomenon. The issues come down to what a property owner can do with his property versus the concerns of the neighbors.

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2                   Essentially we've entered a  
3 situation now where we've got commercial  
4 endeavors, home grown hotels, taking place  
5 in residential areas. You know, overall  
6 it seems to cancel out the entire concept  
7 of zoning where you have a separation of  
8 residential areas from the commotion of  
9 commercial districts. What is  
10 particularly perplexing with regard to  
11 this phenomenon is where purchasers of  
12 real estate are coming in and buying the  
13 real estate, intending to use the property  
14 as short-term rentals rather than, you  
15 know, the long-time owner that's been here  
16 forever and is kind of facing hard times  
17 trying to raise some cash. I understand  
18 the difficulty in dealing with the issue,  
19 and hopefully the town law that you've  
20 mentioned here a couple times will prove  
21 workable and serve to protect the  
22 residential environment and minimize the  
23 negative impacts on residential life by  
24 these rental operations.

25                   Again, I commend the Town for

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trying.

I do appreciate, actually, the efforts of this applicant here at 95 Millhouse for submitting his application as required by law. There are plenty of properties, which I'll mention in a moment, that just don't even bother trying to follow the ordinance.

Since the law that you've drafted allows the short-term rentals, the goal here that I see should be to eliminate or minimize the impact of the applicant's business activity on the surrounding community, which seems to me an equitable and fair approach.

I travel a lot, often two weeks out of a month, and I know that people, when they're in a rental -- in a hotel, they don't act with the same sort of, you know, acceptable behavior that people do in a regular home. For example, two weekends ago I was up in Rochester for a graduation in a Marriott hotel, and Friday and Saturday night, the room next door was

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partying until 1:30, 2:30 in the morning. You'd think it was just, you know, a bunch of punk kids, right. No. It was fifty year olds and sixty year olds in there, running -- having a rambunctious good old time. So that's a concern here moving forward for the neighbors.

CHAIRMAN BRAND: I do believe that there's a section in the code that if there's a violation, that their permit can be revoked as well.

MR. JEFF MAGLIATO: I understand that. I understand the law. I was listening in when they actually passed it.

So I'm hoping, I'm hoping the fact that the owner lives at this property will help minimize any spillover effects, such as noise, smoke from firepits, late night (inaudible) in the backyard as actually we've already witnessed from this property. Not to -- I don't want to go overboard but there has been some impact.

And sadly -- as I mentioned earlier about other properties, sadly the



1  
2 folks on Millhouse have been suffering  
3 from another Airbnb property that's  
4 located up on, I believe it's called  
5 Michael's Place which is just below the  
6 LaMela Sanitation building. That property  
7 for well over a year has been an Airbnb  
8 where we, the neighbors, have to put up  
9 with fireworks, late night, loud fireworks  
10 crackling over our properties as they  
11 shoot it from their property over towards  
12 the Millhouse area, and their firepits  
13 putting out smoke.

14           So in regard to this particular  
15 applicant, the first floor unit, that's  
16 the one on the north side, I think the one  
17 bedroom, when it's occupied it has an air  
18 condition unit or an air circulation  
19 device that feeds the unit. That unit  
20 sits on the southwest corner -- the  
21 northwest corner of the property. The  
22 unit doesn't function properly. When it's  
23 running it makes a loud metallic noise as  
24 it's turning on and off as it's running,  
25 and the sound carries well beyond the

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borders of the applicant's property.  
Basically what I'm saying is people come to rent that property and they're impacting our lives by having this unit make noise.

In addition, there's a firepit in the back of the house. Just the other night there were folks out there, I think it was Thursday, and they were out there until at least 12:30 at night, chitchatting away with not small voices. That sound carries, again onto my property and probably others. Again, that means this property is impacting other folks.

I would suggest as a pre-condition for approving this, because again I know he basically has to meet the requirements to approve it, but maybe there's some leeway within the law or within the Planning Board procedures. I would support -- I would suggest that a precondition for the short-term rental be that, one, they fix the air conditioning unit so it doesn't radiate the sound out

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beyond the borders of the property and it works -- functions properly. Two, perhaps maybe even there should be consideration for requiring a fence around the border of the property to help minimize when people are sitting in the backyard chitchatting away and, you know, it interferes with neighbors if things carry on until well into the evening.

So that would be my peace that I've spoken.

CHAIRMAN BRAND: Thank you, Mr. Magliato.

Anyone else from the public?

MR. BOB MAGLIATO: Yes. One last piece. Bob Magliato, 91 Mill. I heard you discussing as to where the letters went to, the certified letters, registered mail letters. The bottom line is they did not go to all the appropriate people. Something like that should be really gone out again before this thing is approved. A lot of people were not notified. I checked that out today.

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Pat Hines, I understand it's 500 feet as you had said. 500 feet from the property line?

MR. HINES: I believe that's what the limit is, yes.

MR. BOB MAGLIATO: They missed all kinds of people. The Skurnicks didn't get it, the Cantones did not get it. I personally didn't get it, by the way. It's supposed to go to the taxpayer. I did not get one but my son got it who happens to reside with me so I knew about the meeting. Other people didn't get it as well. We have a misstep here where a piece of the law was not followed. We don't have the proper people notified.

CHAIRMAN BRAND: Anyone else from the public this evening?

MR. CAUCHI: So Jeff, what's the law if people were not properly informed for a public hearing? Is there any ramification for that, if the applicant was told to do it and it doesn't appear we have any proof that it was done? What is

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our recourse on this? Is there any?

MR. BATTISTONI: It would seem to make sense that if a certain notice is required and it's not given, that's a defect. However, I'm not sure what the specific law is on that. If the Board wants to be cautious, you could adjourn this public hearing for a month and have the applicant send letters again to all of the neighbors, and particularly to the people who said they haven't gotten one. Certainly they've been here tonight anyway to make their comments. Again, if you want to be cautious, you could adjourn this and require additional mailings be sent.

CHAIRMAN BRAND: I think Jen just looked and there should have been a significant higher number than seven sent out.

MR. TRONCILLITO: It would probably make sense to have him resend them, this way everyone gets one.

MS. FLYNN: You can come in the

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office and I can print out a thing for you.

MR. DZIEGELEWSKI: Okay. If you have that list. It doesn't -- I had the seven just estimating it from maps.

MS. FLYNN: You would have to go on Ulster County Parcel Viewer and put in your address and then put in the 500 feet. It gives you the whole list of people you have to do it to.

MR. DZIEGELEWSKI: Okay. It was an estimate on my part.

MR. CAUCHI: Since there's so much feedback from the public and they weren't even notified, we should do our due diligence and make sure that they are properly notified and that their voice be heard. I say that we should revisit this.

CHAIRMAN BRAND: So Manny, are you making a motion to adjourn the public hearing in order for him to allow those mailings to be sent out and for the application to be amended correctly to reflect the number of bedrooms

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specifically?

MR. TRONCILLITO: I'll make that motion.

MR. GAROFALO: I think we have to do that to a specific date.

CHAIRMAN BRAND: We will. It will be July --

MS. FLYNN: 19th.

MR. CAUCHI: Yes, I'll make that motion.

MR. TRONCILLITO: I'll second.

CHAIRMAN BRAND: Any discussion?

MR. HINES: You're going to extend the public hearing and require the applicant to re-notice?

CHAIRMAN BRAND: Correct. And for the applicant to amend his application to reflect the proper number of bedrooms was also --

MS. LANZETTA: And bathrooms.

MS. FLYNN: Does it have to go in the paper again?

CHAIRMAN BRAND: I would assume, yes.

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MR. HINES: If you're going to re-notice it. I'll defer to Jeff, though.

MR. BATTISTONI: I don't think you normally do that with an adjourned public hearing. Once you open it, you just adjourn it.

MS. LANZETTA: Yes.

MS. FLYNN: Okay.

MR. HINES: Jeff, they're adjourning it with the caveat that they're going to re-notice to make sure that those that weren't on the list get it. This is unusual. Adjourning to a date certain, certainly you wouldn't put it back in the paper, but --

MR. JEFF MAGLIATO: Excuse me. Can you hear me?

CHAIRMAN BRAND: I can.

MR. JEFF MAGLIATO: This is Jeff Magliato. I hate to step in there. It seems to me, and I know this is just procedural, but procedurals are part of the law, if you have an invalid public hearing, which this essentially would be



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if no one was notified properly, then it's not an adjournment. You're actually starting an entirely new public hearing. You can't adjourn a public hearing that wasn't legitimate.

MR. BATTISTONI: I think you actually can adjourn to a correct (inaudible) notice. There was a publication in the newspaper. Certain residents got a notice. That's going to be corrected for the adjourned date of July 19th.

CHAIRMAN BRAND: So that motion is on the floor. It was seconded. There was discussion. Are there any objections to doing so?

(No response.)

CHAIRMAN BRAND: None. Any abstentions?

(No response.)

CHAIRMAN BRAND: None.

So Mr. Dziegelewski, you are adjourned until July 19th. I would suggest that you meet with Jen or give her

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a call to get the list of the proper mailing addresses that need to be sent out, amend the application and submit that prior to the deadline for the July 19, 2021 meeting.

MR. DZIEGELEWSKI: Sure. And just one clarification. Are we counting half baths? Do you want that described in the detail? The six and six was including the main house and the two Airbnbs, including half baths.

MS. LANZETTA: When we do the application -- that's a good question. When we do the application for the short-term rental, are we just listing the areas that are going to be rented out, like the three bedrooms as opposed to all six bedrooms?

CHAIRMAN BRAND: I think we want to see what the people are renting.

MR. DZIEGELEWSKI: Okay. Because the floor plan is the whole house, so I included in the narrative all bathrooms and all bedrooms, and then it's broken up,

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you can see on the plan, where the two spaces are going to be rented. Those are measured to meet the fifty-percent rule.

MS. LANZETTA: You don't need to meet the fifty-percent rule because you're doing short-term rental. Also, you don't want to put down all six bedrooms because then you're going to have to pay fees on every bedroom. If you're not renting out those additional bedrooms, you don't want them listed.

MR. DZIEGELEWSKI: Yeah. The site plan was done of the whole house. If you look at the floor plan, there's a separate part where it outlines just the Airbnb part. For clarification of the entire house, the entire house is there.

MS. LANZETTA: When you're filling out your application, which you did in preparation for asking for approval from the building inspector, once you have our approval, in that application you listed every bedroom, six bedrooms, and you don't want to do that because you'll

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be paying for all of those bedrooms.

MR. DZIEGELEWSKI: Okay. I did it according to the whole plan. I'll just do it according to what is rented.

MR. TRONCILLITO: Chris, I've got a question.

CHAIRMAN BRAND: Sure.

MR. TRONCILLITO: Would it behoove him to have Tommy come down and do an inspection?

MR. HINES: I was going to suggest the same thing, if Tommy will do it.

MR. TRONCILLITO: He'll at least see what he can do and can't do and what he's got to change or not change.

CHAIRMAN BRAND: You can certainly ask him. I have no authority over the code enforcement officer. You can certainly ask Mr. Corcoran if he would be willing to do that.

MR. TRONCILLITO: It would make sense.

MR. DZIEGELEWSKI: I spoke to him

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previously. I just didn't ask him to come down and check things out.

MR. TRONCILLITO: I would.

MR. DZIEGELEWSKI: Yeah.

CHAIRMAN BRAND: A suggestion.

All right then. We will see you again on July 19th.

All of you that are here for the public hearing, hopefully you'll receive the proper notification. Let your neighbors know July 19th as well. All right. Thank you.

MR. DZIEGELEWSKI: Thank you.

(Time noted: 8:25 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 5th day of July 2021.

*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

LANZETTA RESERVOIR ROAD

Project No. 21-5013  
198 Reservoir Road, Marlboro  
Section 108.1; Block 1; Lots 9.1 & 14

----- X

SKETCH - LOT LINE

Date: June 21, 2021  
Time: 8:25 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
CINDY LANZETTA (Recused)  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE  
ROBERT TRONCILLITO

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

APPLICANT'S REPRESENTATIVE: AL LANZETTA

----- X

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

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CHAIRMAN BRAND: Next is Lanzetta Reservoir Road, sketch of a lot line at 198 Reservoir Road in Marlboro.

I'm assuming you're recusing yourself?

MS. LANZETTA: Yeah. I'm going to take myself out of this room and my representative is going to be here instead.

CHAIRMAN BRAND: All right.

MR. LANZETTA: Good evening.

CHAIRMAN BRAND: Good evening, Mr. Lanzetta. How are you this evening?

MR. LANZETTA: I'm very good. How are you?

CHAIRMAN BRAND: I'm swell, thank you.

MR. LANZETTA: Let me shut the door. I'm getting a little feedback.

CHAIRMAN BRAND: Pat, did you want to review your comments quickly?

MR. HINES: Sure. So the project is a proposed lot line change. It's going



1  
2 to create a 3.8 plus or minus acre parcel,  
3 which is currently tax lot 14, and a 38.9,  
4 I'll say, plus or minus acre parcel which  
5 is currently identified as tax lot 9.1.

6 The 3.8 plus or minus parcel  
7 contains an existing well and a septic  
8 system from a previous use.

9 The larger parcel contains  
10 existing structures as existing wells and  
11 septic systems which serve those, and that  
12 parcel is getting larger.

13 It conforms to the Town's  
14 expedited lot line change procedure.

15 The building inspector did refer  
16 it to the Planning Board to allow it to  
17 proceed.

18 This lot line is a Type 2 action  
19 under SEQRA, requiring no further review.  
20 We take no exception to the Planning Board  
21 addressing the lot line change.

22 CHAIRMAN BRAND: Questions or  
23 comments from the Board before I hand it  
24 over to Jeff?

25 MR. GAROFALO: I just want to

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make a verification that the well and the septic on lot 2 is not serving any of the houses on the -- the existing houses on lot 1.

MR. LANZETTA: No.

CHAIRMAN BRAND: Mr. Lanzetta?

MR. GAROFALO: The other question I have is Reservoir Road, is that a public or a private road?

MR. LANZETTA: A Town road.

MR. GAROFALO: It's a public road?

MR. HINES: It's a public road, yes.

MR. GAROFALO: Thank you.

MR. LANZETTA: You're welcome.

CHAIRMAN BRAND: Did he answer the question?

MR. HINES: He said no, it's not.

CHAIRMAN BRAND: Okay. I missed that.

Any other questions or comments from the Board?

MR. GAROFALO: One other comment.

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2 Generally on the zoning requirement table  
3 you show what's required. It's a good  
4 idea normally to show also what is  
5 actually being provided. In this case we  
6 know that the setbacks on the existing  
7 houses are actually getting bigger, so it  
8 doesn't really matter too much here. I  
9 just want to make for future reference  
10 that this is something that we should  
11 always be asking about, not only having  
12 the zoning requirements but what the  
13 existing and the proposed are going to be.  
14 Clearly that's not an issue here because  
15 it's -- the setbacks, et cetera are going  
16 to be expanded for the existing houses.  
17 Thank you.

18 CHAIRMAN BRAND: Anything else  
19 from the Board?

20 (No response.)

21 CHAIRMAN BRAND: All right then.  
22 Mr. Battistoni, comments or --

23 MR. BATTISTONI: Yes. When I get  
24 a straightforward application like this  
25 in, I do try to prepare a resolution

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quickly even though I haven't been authorized to do so.

I'll reflect or mention, as Pat said this is a Type 2 action. There is the provision in the Town Code to waive a public hearing for a lot line adjustment just between two lots. That's built into the resolution that I prepared. I view this as very straightforward.

CHAIRMAN BRAND: All right. With that being said, on the application of Cynthia Lanzetta and Alphonso Lanzetta for a lot line change, you have before you a resolution of approval by the Town of Marlborough Planning Board dated June 21, 2021.

Jen, would you poll the Board.

MS. FLYNN: Chairman Brand?

CHAIRMAN BRAND: Yes.

MS. FLYNN: Member Lofaro?

MR. LOFARO: Yes.

MS. FLYNN: Member Clarke?

MR. CLARKE: Yes.

MS. FLYNN: Member Cauchi?

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MR. CAUCHI: Yes.

MS. FLYNN: Member Garofalo?

MR. GAROFALO: Yes.

MS. FLYNN: Member Troncillito?

MR. TRONCILLITO: Yes.

CHAIRMAN BRAND: All right. Mr. Lanzetta, it seems as though you're all set. You can invite the better half in.

MR. LANZETTA: Okay. The better half, I agree with that.

CHAIRMAN BRAND: Mr. Battistoni, I believe we are through with your services for the evening. Enjoy.

MR. BATTISTONI: Okay. I'll see everyone on July 19th.

CHAIRMAN BRAND: I'll be there. And Michelle, I believe you are set as well.

(Time noted: 8:26 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 5th day of July 2021.

*Michelle Conero*

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MICHELLE CONERO