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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X
In the Matter of

SERVISS TWO-LOT SUBDIVISION
(2021-07)

1298 Union Avenue
Section 14; Block 1; Lot 48
R-2 Zone

- - - - - X

TWO-LOT SUBDIVISION

Date: December 16, 2021
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

- - - - - X

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

1 SERVISS TWO-LOT SUBDIVISION

2 CHAIRMAN EWASUTYN: Good evening,
3 ladies and gentlemen. We'd like to
4 welcome you to the Town of Newburgh
5 Planning Board meeting of the 16th of
6 December. We have nine items on the
7 agenda.

8 At this point we'll call the
9 meeting to order with a roll call
10 vote.

11 MR. GALLI: Present.

12 MS. DeLUCA: Present.

13 MR. MENNERICH: Present.

14 CHAIRMAN EWASUTYN: Present.

15 MR. DOMINICK: Present.

16 MR. WARD: Present.

17 MR. CORDISCO: Dominic
18 Cordisco, Planning Board Attorney.

19 MS. CONERO: Michelle Conero,
20 Stenographer.

21 MR. HINES: Pat Hines with MHE
22 Engineering.

23 MR. CAMPBELL: Jim Campbell,
24 Town of Newburgh Code Compliance.

25 MR. WERSTED: Ken Wersted,

1 SERVISS TWO-LOT SUBDIVISION

2 Creighton, Manning Engineering,
3 Traffic Consultant.

4 CHAIRMAN EWASUTYN: At this
5 point we'll turn the meeting over to
6 Michelle Conero.

7 MS. CONERO: If everyone would
8 stand for the Pledge.

9 (Pledge of Allegiance.)

10 MS. CONERO: If everyone would
11 silence their cellphones, please.

12 CHAIRMAN EWASUTYN: The first
13 item of business is the Serviss
14 Two-Lot Subdivision, project number
15 21-07. It's located on Union Avenue
16 in an R-2 Zone. It's being presented
17 by Jonathan Cella.

18 MR. CELLA: Good evening. I'm
19 here for a two-lot residential
20 subdivision of a 40.5 acre parcel,
21 creating one new building lot that
22 will be approximately 8.8 acres. The
23 lot will be serviced by public water
24 and an individual septic system.

25 The parent parcel is in both

1 SERVISS TWO-LOT SUBDIVISION

2 the R-2 and RR Zoning District with
3 the new parcel being in the R-2
4 Zoning District.

5 The remaining lands,
6 approximately 40 acres, contains one
7 existing residence, single-family
8 residence.

9 The new building lot will be on
10 the north side of the parcel with a
11 long driveway to Union Avenue.

12 CHAIRMAN EWASUTYN: Any
13 questions or comments from Board
14 Members?

15 MR. GALLI: None, John.

16 MS. DeLUCA: No.

17 MR. MENNERICH: No.

18 CHAIRMAN EWASUTYN: At this
19 point we'll turn the meeting over to
20 Pat Hines with McGoey, Hauser &
21 Edsall. Pat?

22 MR. HINES: Yes. The project
23 was submitted to Orange County
24 Planning for review as it's located
25 within 500 feet of the Thruway. We

1 SERVISS TWO-LOT SUBDIVISION

2 received a letter back with a Local
3 determination.

4 The short environmental
5 assessment form identified wetlands
6 on the parcel, however there are no
7 wetlands on the part of the parcel
8 currently proposed to be developed.
9 There would be no wetland impact.

10 We're suggesting that the short
11 environmental assessment form and a
12 review of the Part 2 of that, that
13 there would be no significant
14 environmental impacts and the Board
15 could possibly consider a negative
16 declaration.

17 It does require a public
18 hearing for the two-lot subdivision.

19 Just a note that the project is
20 going to connect to Town municipal
21 sewer and be served by an onsite
22 septic system.

23 That's all we have.

24 CHAIRMAN EWASUTYN: Jim
25 Campbell, Code Compliance?

1 SERVISS TWO-LOT SUBDIVISION

2 MR. CAMPBELL: No additional
3 comments.

4 CHAIRMAN EWASUTYN: At this
5 point would someone move to declare a
6 negative declaration and set it for a
7 public hearing on the 20th of January
8 2022?

9 MR. DOMINICK: I'll make a
10 motion.

11 MR. WARD: Second.

12 CHAIRMAN EWASUTYN: I have a
13 motion by Dave Dominick. I have a
14 second by John Ward. Can I please
15 have a roll call vote starting with
16 Frank Galli.

17 MR. GALLI: Aye.

18 MS. DeLUCA: Aye.

19 MR. MENNERICH: Aye.

20 CHAIRMAN EWASUTYN: Aye.

21 MR. DOMINICK: Aye.

22 MR. WARD: Aye.

23 CHAIRMAN EWASUTYN: Thank you.

24

25 (Time noted: 7:04 p.m.)

1 SERVISS TWO-LOT SUBDIVISION

2

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

4

5

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

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

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

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 3rd day of January 2022.

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Michelle Conero

22

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X
In the Matter of

GUELBERG & McGOWAN LOT LINE CHANGE
(2021-32)

255 & 259 Fostertown Road
Section 39; Block 1; Lots 23 & 24
R-2 Zone

- - - - - X

INITIAL APPEARANCE
LOT LINE CHANGE

Date: December 16, 2021
Time: 7:04 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: KENNETH LYTTLE

- - - - - X

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

1 G U E L B E R G & M C G O W A N L O T L I N E C H A N G E

2 CHAIRMAN EWASUTYN: The second
3 item on the agenda this evening is
4 Guelberg & McGowan. It's a lot
5 line change, an initial appearance.
6 It's located on Fostertown Road in an
7 R-2 Zone. It's being represented by
8 Ken Lytle of Zen Consultants. Ken?

9 MR. LYTLE: Yes. Good evening.

10 What we're proposing tonight is
11 a simple lot line change. The
12 existing neighboring smaller parcel
13 is actually looking to get more
14 property proposed for the backyard.
15 The neighbor was nice enough to
16 actually work with him to accommodate
17 that and we're here before the Board
18 for that simple reason.

19 The existing home is actually
20 already serviced by Town water. It
21 has a septic in the back which is
22 noted on the plan. The larger parcel
23 has an existing well in front.

24 CHAIRMAN EWASUTYN: Comments
25 from Board Members?

1 G U E L B E R G & M C G O W A N L O T L I N E C H A N G E

2 MR. GALLI: It's noted about
3 the information that Pat sent you
4 about the ZBA.

5 MR. LYTTLE: I got that. Thank
6 you.

7 MR. GALLI: That's it, John.

8 MR. MENNERICH: It's pretty
9 straightforward.

10 MR. DOMINICK: No.

11 MR. WARD: No.

12 CHAIRMAN EWASUTYN: At this
13 point we'll turn the meeting over to
14 Pat Hines with McGoey, Hauser &
15 Edsall.

16 MR. HINES: I'm going to go in
17 reverse order.

18 My third comment identifies
19 that Tax Lot 23 has insufficient side
20 yard in its existing condition. 13.3
21 feet are existing where 15 feet is
22 required. A referral to the Zoning
23 Board of Appeals will be required as
24 the site loses its grandfathering due
25 to the lot line change.

1 G U E L B E R G & M C G O W A N L O T L I N E C H A N G E

2 We'll need adjoiners' notices
3 submitted prior to return to this
4 Board which I will work with the
5 applicant's representative on.

6 The project also needs a
7 referral to Orange County Planning as
8 it's located on a County highway.

9 CHAIRMAN EWASUTYN: Jim
10 Campbell, Code Compliance?

11 MR. CAMPBELL: No additional
12 comments.

13 CHAIRMAN EWASUTYN: Would
14 someone move for a motion to
15 circulate this to the Orange County
16 Planning Department?

17 MR. GALLI: So moved.

18 MS. DeLUCA: Second.

19 CHAIRMAN EWASUTYN: I have a
20 motion by Frank Galli. I have a
21 second by Stephanie DeLuca. May I
22 please have a roll call vote.

23 MR. GALLI: Aye.

24 MS. DeLUCA: Aye.

25 MR. MENNERICH: Aye.

1 G U E L B E R G & M C G O W A N L O T L I N E C H A N G E

2 CHAIRMAN EWASUTYN: Aye.

3 MR. DOMINICK: Aye.

4 MR. WARD: Aye.

5 CHAIRMAN EWASUTYN: Motion
6 carried.

7 MR. HINES: Are we going to
8 refer it to the ZBA?

9 MR. CORDISCO: Yes.

10 CHAIRMAN EWASUTYN: Excuse me.
11 Thank you.

12 We're referring it to the ZBA
13 for a side yard variance and a front
14 yard variance also?

15 MR. HINES: Just side yard.

16 CHAIRMAN EWASUTYN: It's a side
17 yard of 13.3 as showing but 15 feet
18 is required. Correct?

19 MR. LYTTLE: Yes.

20 MR. HINES: Yes.

21 CHAIRMAN EWASUTYN: Thank you.
22 Would someone move for that
23 motion?

24 MR. GALLI: So moved.

25 MR. MENNERICH: Second.

1 G U E L B E R G & M C G O W A N L O T L I N E C H A N G E

2 CHAIRMAN EWASUTYN: I have a
3 motion by Frank Galli. I have a
4 second by Ken Mennerich. May I
5 please have a roll call vote.

6 MR. GALLI: Aye.

7 MS. DeLUCA: Aye.

8 MR. MENNERICH: Aye.

9 CHAIRMAN EWASUTYN: Aye.

10 MR. DOMINICK: Aye.

11 MR. WARD: Aye.

12 CHAIRMAN EWASUTYN: Thank you.

13 MR. LYTTLE: Thank you.

14

15 (Time noted: 7:09 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 3rd day of January 2022.

Michelle Conero

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X
In the Matter of

ELM FARM
(2021-15)

Wells & Fostertown Roads
Section 39; Block 1; Lot 12.44
R-2 Zone

- - - - - X

PUBLIC HEARING
52-LOT SUBDIVISION

Date: December 16, 2021
Time: 7:09 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JASON PITINGARO

- - - - - X

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

1 E L M F A R M

2 CHAIRMAN EWASUTYN: Number 3 is
3 Elm Farm, project number 21-15. It's
4 a public hearing on a 52-lot
5 subdivision. It's located on Wells
6 and Fostertown Road in an R-2 Zone.
7 It is being represented by Jason
8 Pitingaro.

9 At this point Mr. Mennerich
10 will read the notice of hearing.

11 MR. MENNERICH: "Notice of
12 hearing, Town of Newburgh Planning
13 Board. Please take notice that the
14 Planning Board of the Town of
15 Newburgh, Orange County, New York
16 will hold a public hearing pursuant
17 to Section 276 of the Town Law on the
18 application of Elm Farm, 52-lot
19 subdivision, project 2021-15, located
20 1.5 miles south of the intersection
21 of Wells Road and Fostertown Road.
22 The project is a 47.2 plus or minus
23 acre parcel of property with frontage
24 on both Wells Road and Fostertown
25 Road. The project previously had

1 E L M F A R M

2 conditional final approval from the
3 Town of Newburgh. Lots are proposed
4 to be serviced by municipal water and
5 sewer extensions of the Town of
6 Newburgh's water and sewer systems.
7 Stormwater management facilities are
8 proposed to be incorporated into the
9 subdivision plan. The site is
10 located in the Town's R-2 Zoning
11 District. The project site is known
12 on the tax maps of the Town of
13 Newburgh as Section 39, Block 1,
14 Lot 12.44. A public hearing will be
15 held on the 16th day of December 2021
16 at the Town Hall Meeting Room,
17 1496 Route 300, Newburgh, New York at
18 7 p.m. at which time all interested
19 persons will be given an opportunity
20 to be heard. By order of the Town of
21 Newburgh Planning Board. John P.
22 Ewasutyn, Chairman, Planning Board
23 Town of Newburgh. Dated 10 November
24 2021."

25 CHAIRMAN EWASUTYN: Thank you.

1 E L M F A R M

2 At this point we'll turn the
3 meeting over to Pat Hines with
4 McGoey, Hauser & Edsall to give a
5 history of the application before us.

6 MR. HINES: Sure. This project
7 is a 52-lot subdivision. It's been
8 before the Board for, I'll say 21
9 years now.

10 In 2000 the initial application
11 was made for the project. It went
12 through extensive reviews and sought
13 outside agency approvals that were
14 required.

15 In 2006 or thereabouts it
16 received a conditional final approval
17 with numerous conditions, including
18 posting of security for the public
19 improvements. That approval was
20 valid until sometime around 2008 when
21 the economy wasn't very well for
22 single-family homes. The Board's
23 policy was that it allowed projects
24 to drop back to preliminary approval.

25 So in 2008 this project took

1 E L M F A R M

2 advantage of that policy at the time
3 and went back to preliminary approval
4 which stopped tolling of the
5 approvals.

6 In 2015 -- 2014, '15 the
7 project came back before this Board.
8 Additional review was undertaken.
9 Permits were renewed. Public
10 hearings were held. The project
11 received a new conditional approval
12 with similar conditions as the
13 original approval, some outside
14 agency approvals, posting of security
15 for public improvements, water,
16 sewer, drainage, roadways.

17 That conditional approval also
18 lapsed in the time since 2015. This
19 project is before us again, the
20 project is back before the Board
21 seeking a final approval.

22 Certainly there will be
23 conditions the Board would impose,
24 but they have updated the outside
25 agency approvals. There were

1 E L M F A R M

2 numerous outside agency approvals.
3 The Board has those permits and
4 approvals in hand for the most part.

5 We have a couple of comments to
6 address. Some approvals for the
7 outside user agreement just need to
8 be updated and proven that they are
9 still in effect.

10 But with that, it's back for
11 its third or fourth public hearing
12 and is seeking a conditional final
13 approval again for the project. It
14 remains exactly the same project as
15 was before the Board in 2015 at which
16 it received a conditional final
17 approval.

18 CHAIRMAN EWASUTYN: Thank you.

19 Before Jason Pitingaro presents
20 the project, he will present the
21 project, for those in the audience
22 who have any questions or comments,
23 please raise your hand, give your
24 name and address after Jason makes
25 his presentation and then we'll call

1 E L M F A R M

2 on you.

3 The way the meeting is held is
4 Jason Pitingaro will present the
5 project. When he's finished
6 presenting the project, anyone who
7 has questions or comments, please
8 raise your hand and give your name
9 and address. Thank you.

10 Jason?

11 MR. PITINGARO: Sure. Thank
12 you. Jason Pitingaro, Pitingaro &
13 Doetsch Engineers.

14 I think both the Board and Pat
15 gave a good summary of the project.
16 I've been with the project since
17 2008, so a little after it was
18 originally approved.

19 As mentioned, it is a 52-lot
20 subdivision on approximately 47
21 acres. It's in the R-2 Zoning
22 District which is a 15,000 square
23 foot Zoning District. All the lots
24 are compliant. The majority of the
25 lots are about 25,000 square feet.

1 E L M F A R M

2 There are some that are a little
3 smaller and, of course, some that are
4 a little larger. There are some that
5 are quite large towards the rear
6 here.

7 The project mainly fronts on
8 Wells Road, but it also has access
9 through Fostertown Road. There is a
10 through road that connects between
11 Fostertown and Wells Road. There
12 will be a short loop road and
13 cul-de-sac off of that through road
14 there.

15 There is, as mentioned, an
16 internal stormwater system with three
17 ponds. It will be served by water
18 and sewer from the Town and City.

19 Again, it's gone through a
20 number of hearings and reviews.
21 There were a number of outside agency
22 approvals that were sought and
23 obtained. At this point I believe
24 all the approvals are in effect.

25 I don't know if it was between

1 E L M F A R M

2 this meeting and the last meeting,
3 but we did just receive the renewal
4 of our water quality and DEC
5 certification which was one of the
6 ones that were set to lapse in early
7 2022 possibly. But that's been
8 renewed again I think until 2024. So
9 that is in effect.

10 There was a reference by Pat
11 about what I believe is the sewer
12 agreement with the Town. We do
13 have -- and I want to apologize.
14 Mr. Slutsky is on his way here from
15 Albany and is delayed by more than
16 two hours in what appears to be a
17 massive car accident. So we will
18 provide proof of payment of 50
19 percent of the sewer district fees
20 that the applicant had made prior.
21 It's so long ago, probably over ten
22 years ago, it's been a little
23 troublesome for them to get that
24 proof. We will obtain that or, if
25 necessary, repay the whole fee, if

1 E L M F A R M

2 needed. But that partner is located
3 in the State of Florida right now, so
4 there's been a little back and forth
5 to get that documentation.

6 As mentioned, some of the
7 comments from the prior public
8 hearings included some lighting
9 added, some work on the shoulder in
10 the area of Wells Road.

11 Mr. Wersted could comment, but
12 there was a full traffic study done.
13 I believe it actually incorporated a
14 couple of other developments into the
15 study that was done for this project.
16 I don't believe that those
17 developments have -- at least one of
18 them have not gone forward as well,
19 so I think the traffic has been
20 pretty thoroughly studied.

21 The project is a little oddly
22 numbered in terms of lots. It goes
23 from 5 to I believe 58 or 56.
24 There's only 52 lots although it's
25 shown as 56. I think there was a

1 E L M F A R M

2 reduction in the number of lots
3 probably after the traffic study was
4 done. So even still, there are less
5 lots than were originally proposed.
6 Some ended up being dedicated to
7 stormwater. In the final approval we
8 eliminated a third cul-de-sac that
9 was here and turned it into a
10 driveway that only served two lots.
11 So there were another few lots that
12 were eliminated there.

13 I'd be glad to answer any of
14 the Board's or public's questions
15 tonight. I'll go ahead and let them
16 speak.

17 CHAIRMAN EWASUTYN: If anyone
18 has any questions or comments, please
19 raise your hand and give your
20 address.

21 The lady in the front.

22 MS. MALCOLM: I heard a lot
23 about the sewage and water and all of
24 that.

25 My concern in being here --

1 E L M F A R M

2 MR. DOMINICK: Could you state
3 your name and address?

4 MS. MALCOLM: -- is the
5 wetlands.

6 MR. DOMINICK: Could you state
7 your name and address?

8 MS. MALCOLM: I'm sorry?

9 MR. DOMINICK: Your name and
10 address.

11 MS. MALCOLM: Oh, I'm sorry.
12 Yes. Jo Ann Malcolm, 55 New Road,
13 Newburgh, New York.

14 So if you want to walk right
15 through the center of that, walking
16 through the wetland, you're going to
17 come right on my front lawn.

18 Behind me is 26 acres of
19 woodland. My concern is the wildlife
20 in the swamp, in the wetlands. What
21 happens to the wildlife when this
22 development starts? I know what will
23 happen in some respect, they will
24 start coming towards New Road.
25 Because I have a lot of woods behind

1 E L M F A R M

2 me, they will migrate into my woods.
3 What studies have been done about the
4 wetland and building so close to the
5 wildlife habitat?

6 I know this is Elm Farm. To me
7 it will always be Hunt's homestead.
8 Marjorie Hunt was an advocate for the
9 wildlife and that wetland. I will
10 tell you that 58 New Road is right
11 across from me, down in and near the
12 wetland. In fact, when the people
13 just sold the house a few years ago
14 it was advertised as you have your
15 own private wildlife refuge.

16 When that house was built, I
17 can remember the day specifically, I
18 taught school and I said oh, nice, I
19 can sleep late today. No. The
20 bulldozers started. When those
21 bulldozers started, the hoot owl
22 started. That hoot owl hooted all
23 day long because you were taking away
24 his habitat. He never stopped
25 hooting all day long. Then he went

1 E L M F A R M

2 deeper and deeper into the wetlands.
3 I have concerns about the wildlife.

4 I deal with it every year in my
5 woods with hunters trespassing. Even
6 though I put up signs, they pull them
7 down. I encountered a couple this
8 year with bow and arrows. The more
9 animals that are disturbed by the
10 building, they go into the little
11 places. The hunters know that and
12 it's an easy kill.

13 So that's why I'm here tonight,
14 on behalf of the wildlife and that
15 wetland. I thought that was to be
16 protected by the DEC and I'm
17 confused.

18 Thank you.

19 CHAIRMAN EWASUTYN: Thank you.

20 You've coordinated with the
21 DEC?

22 MR. PITINGARO: Yes, we've
23 coordinated with the DEC.

24 I'm not exactly sure where your
25 residence is. This particular

1 E L M F A R M

2 property is not, in fact, encumbered
3 by DEC wetlands. It's encumbered by
4 some small portion of Army Corp
5 wetlands. They actually were
6 resurveyed and had decreased in size
7 from the original time the
8 application was made.

9 This particular portion of land
10 is fairly -- I don't want to say
11 fairly steep, but it has some grade
12 to it and is not a traditional area
13 that would be accommodating to
14 wetlands.

15 I do agree that it's wooded and
16 it is -- there are some animal
17 habitat there.

18 I would say, you know, in terms
19 of hunters and enforcement, it's
20 probably beyond my purview, but the
21 development of this site would
22 probably limit hunting in this area
23 certainly.

24 There are some DEC wetlands on
25 the other side of Wells Road. Again,

1 E L M F A R M

2 I don't think that those are directly
3 affected by this project here.

4 MR. HINES: A portion of the
5 wetland regulated area comes onto
6 this site which is why you have the
7 wetlands -- the DEC permit that you
8 did receive.

9 The wetlands themselves are not
10 located on this property, they're on
11 the opposite side of the road. The
12 DEC wetlands have a 100-foot
13 regulated area associated with them
14 that comes across the road and onto
15 this site. This site does have a
16 valid DEC Article 24 wetland permit
17 and a water quality certification
18 that, as Mr. Pitingaro said, has been
19 recently reissued and is valid
20 through 2024.

21 CHAIRMAN EWASUTYN: Are there
22 any additional questions or comments
23 from the public?

24 The gentleman in the back.

25 MR. INGRAM: Timothy Ingram,

1 E L M F A R M

2 37 Adonna Drive.

3 My question is how is it going
4 to be developed? Is it going to be
5 done where they come in and they
6 clear all the woods all at once or
7 are they just going to do it on a lot
8 by lot basis? How is that going to
9 be done?

10 I mean I'm behind lots 6, 7 and
11 8 over there. To be honest, I like
12 my privacy in the woods there. I
13 know this is probably going to go
14 through at some point, but I mean I'd
15 rather not just see, you know, baron
16 land back there, just sitting there
17 waiting for houses to come on it.
18 That's one question I have.

19 The other question is when this
20 was originally proposed, like I say,
21 twenty years ago, or whatever it was,
22 there was going to be a buffer of
23 trees left which would affect my
24 property. Like 10 to 15 feet of
25 trees, maybe a little bit more. I'm

1 E L M F A R M

2 assuming that's not going to happen
3 anymore.

4 Lastly is the retention ponds
5 or the stormwater basins, whatever
6 they are being called. Who maintains
7 them once they're put in?

8 If you look at like the one in
9 front of Shop Rite -- Stop & Shop,
10 that one is maintained beautifully.
11 If you look at the one in front of
12 CVS over there, that one, to be
13 honest, looks like hell. I'm just
14 wondering who maintains this once
15 it's put in place?

16 Thank you.

17 CHAIRMAN EWASUTYN: Please.

18 MR. PITINGARO: Just to answer
19 your first question in terms of
20 phasing and development, I think it's
21 unlikely, highly unlikely that they
22 would come in and clear the entirety
23 of the area at once. It's not likely
24 that you're going to be able to sell
25 52 units within a year or two's time.

1 E L M F A R M

2 You referenced lots 5, 6, 7 and
3 8.

4 MR. INGRAM: Somewhere in that
5 one corner there.

6 MR. PITINGARO: I would say
7 that those houses are pulled closer
8 to their front setback line. There
9 will, in fact, be a buffer maintained
10 behind there. There has been no
11 change from what was originally
12 proposed.

13 I know it's -- I cannot control
14 exactly what goes on from here on out
15 once the project is approved, but
16 what I always say to folks is that
17 somebody, a developer or whoever it
18 is, is going to be placing these
19 residences for sale. As much as you
20 like your privacy, it behooves them
21 to make the lots saleable. I'm sure
22 that a prospective buyer does not
23 want to be able to see everybody else
24 around them as well. To clear the
25 minimum that they can and preserve as

1 E L M F A R M

2 a regulated MS-4 municipal separate
3 storm sewer. As part of that permit
4 the Town has is post construction
5 operation and maintenance of the
6 stormwater facilities. The mechanism
7 that they use to do that is forming a
8 taxing district that these 52 lots
9 will contribute on their tax bills
10 money towards the operation and
11 maintenance of the stormwater
12 management facilities and the
13 collection system within there.

14 We currently have, I'll say
15 thirteen to fifteen of those in the
16 Town. The Town contracts out with
17 maintenance companies, landscaping
18 companies typically to perform the
19 operation, the mowing and the
20 clearing of these individual
21 districts. We, every three years,
22 bid out a contract for those to be
23 maintained.

24 The two examples you utilized
25 were on site plans and not

1 E L M F A R M

2 subdivisions. On site plans those
3 are maintained by the owners through
4 a contract with the Town. A
5 stormwater facilities maintenance
6 agreement is filed.

7 We are aware of the CVS issue.
8 We've had some enforcement issues
9 through the Building Department to
10 have CVS maintain theirs.

11 The Stop & Shop one that you
12 like is actually supposed to be a dry
13 pond but over the years it has become
14 quite a wetland. I watched the
15 muskrat sitting in there the other
16 day building a hut while I was at the
17 light. They do change a little bit.
18 That one does function as a wetland
19 so I'm not going to recommend they go
20 out and take it out and make it a dry
21 pond again.

22 Those are site plans. They
23 operate different from the
24 subdivision which would have a taxing
25 district to assure the Town does the

1 E L M F A R M

2 operation and maintenance through a
3 contract that is issued. We bid it
4 every three years. We just recently
5 did it and we have a landscaping
6 company that does that.

7 MR. INGRAM: Thank you.

8 CHAIRMAN EWASUTYN: The
9 gentleman in the back.

10 MR. ROSSI: My name is Sal
11 Rossi. I live on 118 Wells Road, the
12 corner of Wells and Fostertown.

13 My biggest concern is the
14 additional traffic. I know you said
15 there was a traffic study done, but
16 if you go on Wells Road and
17 Fostertown Road now, there's a
18 tremendous amount of traffic.
19 Tremendous. Especially during the
20 morning and the evening commute.

21 There's been many accidents on
22 Wells Road. Not too long ago a woman
23 was killed right at that intersection
24 where Wells and Fostertown meet.

25 Many vehicles have come through

1 E L M F A R M

2 my rock wall, at least four in the
3 past five years, at all times during
4 the day and night.

5 So my biggest concern is the
6 traffic. Again, I know you said that
7 there was a traffic study done, but
8 you need to do another one because
9 there is a tremendous amount of
10 traffic.

11 People don't even follow the
12 speed limit. They're doing 60
13 miles-an-hour on Wells Road. Right
14 in front of my house is the stop
15 sign, okay. They're doing 50 before
16 the stop sign.

17 I almost got in a fight with a
18 bus driver, okay. I'm plowing snow
19 and the bus driver, he actually
20 challenged me.

21 So again, I know you did the
22 study, they're entitled to develop
23 the property, but something has to be
24 done additional because at some
25 point, say a bus load of kids,

1 E L M F A R M

2 there's an accident, kids get killed
3 and then everybody in here is going
4 to say gee, what could we have done.
5 Right? It happens all the time.

6 That's pretty much all I have
7 to say. The traffic is the biggest
8 thing. I don't know if there is
9 anybody else here that lives on Wells
10 Road, but they can tell you how bad
11 the traffic is. I mean it's absurd.

12 On top of that, the garbage.
13 I'm out there picking up garbage
14 every other day.

15 If anybody has got some
16 comments, I'd love to hear them.

17 CHAIRMAN EWASUTYN: Ken Wersted
18 with Creighton, Manning is the
19 Traffic Consultant. Ken?

20 MR. ROSSI: I'm sorry. What
21 was that?

22 CHAIRMAN EWASUTYN: Ken
23 Wersted, he'll introduce himself.

24 MR. WERSTED: Ken Wersted,
25 Creighton, Manning Engineering.

1 E L M F A R M

2 We're the Traffic Consultants for the
3 Town.

4 The project, as was kind of
5 described by Jason during his
6 introduction, had gone through and
7 done a traffic study when it was
8 originally proposed.

9 MR. ROSSI: How long ago was
10 that?

11 MR. WERSTED: When it was
12 originally proposed. I think 2002 or
13 so was the original.

14 MR. ROSSI: So I --

15 CHAIRMAN EWASUTYN: Sal, Sal,
16 let him speak.

17 MR. ROSSI: You're talking
18 almost twenty years ago.

19 CHAIRMAN EWASUTYN: Sal, let
20 him speak.

21 MR. WERSTED: At the time they
22 had looked at the intersection of
23 Fostertown and Wells Road, and also
24 the other end down at Brewer.

25 When they did the traffic

1 E L M F A R M

2 study, they had looked at not only
3 the existing conditions and the
4 traffic from this project, but they
5 had also looked at a couple of other
6 projects that had been proposed. You
7 may remember this, but I think across
8 the street perhaps from you or behind
9 you, depending on the side of the
10 road you're on, there was an
11 affordable housing project proposed
12 there back around 2010. There were a
13 couple of other projects proposed
14 which, you know, I don't think they
15 came to fruition.

16 So at the time when this came
17 back in 2012 or so, because those
18 projects didn't come up or have never
19 come to fruition, I believe the Board
20 had progressed through and approved
21 the project again.

22 The traffic from this
23 particular project is probably
24 generating, you know, between forty
25 and fifty trips in the peak hour.

1 E L M F A R M

2 That is based on studies of hundreds
3 of other developments, meaning they
4 go out and they look at a development
5 of this size, they count up how many
6 houses are inside the development and
7 they count up how much traffic comes
8 in and out. They use those numbers
9 to say if I was to build a similar
10 project or a similar development like
11 this, this is how much traffic it
12 would generate.

13 Those studies were originally
14 done by John Collins Engineers. The
15 findings, as I recall from the notes
16 I had at the time, were that the
17 intersections on either end of Wells
18 Road weren't going to change
19 substantially from this project. The
20 delays at either intersection were
21 going to increase by potentially one
22 second. The delays are what is kind
23 of the measure of impact. If you
24 were to drive up to that road and you
25 normally have fifteen seconds of

1 E L M F A R M

2 delay and you build a project and it
3 now goes to sixteen seconds, we don't
4 see that as a significant change. If
5 it was fifteen seconds and it goes to
6 thirty, it's substantial and
7 mitigation and recommendations would
8 come out as part of that.

9 It has been some time obviously
10 twenty years, since the traffic study
11 has last been looked at.

12 I went through the transcripts
13 from the public hearing that we had
14 in 2012, and speeds, the sight
15 distance coming out of the project,
16 looking towards that rock
17 outcropping, the center line of the
18 road which there wasn't a center line
19 at the time, were all topics that had
20 been raised during that public
21 hearing.

22 That's the extent of the
23 traffic that I can -- history that I
24 can go through at this point.

25 MR. ROSSI: All right. So

1 E L M F A R M

2 there was a traffic study done, okay.
3 But again, that still does not take
4 away from the facts of what I'm
5 telling you right now.

6 So, you know, is anybody going
7 to address that?

8 CHAIRMAN EWASUTYN: Address
9 what, Sal?

10 MR. ROSSI: The additional
11 traffic now.

12 CHAIRMAN EWASUTYN: He just
13 did.

14 MR. ROSSI: I know they did the
15 study. I'm not satisfied with a
16 study that's, you know, twenty years
17 old.

18 I know he's, you know, given me
19 a bunch of facts and numbers that,
20 you know, quite honestly, they really
21 don't mean a heck of a lot to me
22 because I'm seeing exactly what's
23 happening.

24 CHAIRMAN EWASUTYN: He is a
25 licensed professional in the field.

1 E L M F A R M

2 The Board bases their decision on
3 licensed professionals --

4 MR. ROSSI: I agree.

5 CHAIRMAN EWASUTYN: -- and they
6 advise the Board.

7 MR. ROSSI: I agree. I'm not
8 disparaging, you know, him or
9 anything else. I'm just saying I
10 still think that there's, you know, a
11 valid problem with, you know,
12 additional traffic.

13 MR. PITINGARO: If I just may
14 respond as well.

15 I think what Ken has eluded to
16 is that there would be some very
17 minor change but it wouldn't result
18 in a level of service change to the
19 intersections on either side of Wells
20 Road.

21 There is often what I would say
22 is a misconception that the existing
23 condition or enforcement of existing
24 conditions is going to be exacerbated
25 by additional traffic, but those

1 E L M F A R M

2 existing -- whether it's an
3 enforcement issue like with the ponds
4 that were mentioned or something like
5 that is something separate that is
6 going to progress or not happen
7 whether this project goes forward or
8 not.

9 In terms of the traffic study
10 and its completeness and the validity
11 of it, I think Ken would agree that
12 if we were to re-perform the study
13 using only this development and not
14 the other developments which are no
15 longer before the Board at this time,
16 the result and the change in level of
17 service would be very similar if not
18 the same as what was found in the
19 original study.

20 The number of cars per hour for
21 the max trip generation divided by
22 the two entrances is not -- I
23 understand it's significant to you.
24 In terms of the overall capacity of
25 the road, it is not a significant

1 E L M F A R M

2 number.

3 The other thing that was
4 mentioned were the items that came up
5 in the original hearing which were
6 the rock outcrop. I'd like to
7 mention that the rock outcrop was an
8 issue mainly at the time this was
9 another cul-de-sac which again has
10 been eliminated. It's no longer a
11 road. It's only a driveway serving
12 two dwellings. The remediation for
13 that condition is still going to take
14 place.

15 So again, I think the traffic
16 has been evaluated and would be
17 consistent at this point, similar to
18 what it was when it was originally
19 looked at.

20 MR. ROSSI: Okay. I disagree,
21 but okay.

22 CHAIRMAN EWASUTYN: The
23 gentleman to the right of Sal raised
24 his hand. Do you still have a
25 question? Excuse me. To the left of

1 E L M F A R M

2 Sal. Did you have a question before?

3 MR. HENDERSON: Yes.

4 CHAIRMAN EWASUTYN: Thank you.

5 MR. HENDERSON: William

6 Henderson, 60 Wells Road.

7 My big concern is at the last
8 meeting we had I brought up about the
9 runoff that I get in my backyard from
10 the hill that comes down into there.
11 Are those ponds going to be built
12 before everything is built? Because
13 the amount of runoff I get in my
14 backyard in the spring, it floods my
15 backyard out for weeks.

16 You know, I was just wondering
17 if they were going to be put in place
18 before they started clearing because
19 I don't know what's going to happen
20 once they start clearing with the
21 runoff.

22 MR. HINES: The stormwater
23 management facilities will be
24 implemented during the initial phases
25 of the construction. They initially

1 E L M F A R M

2 will serve as sediment ponds and then
3 they will be turned into permanent
4 ponds.

5 There's a process they go
6 through where they are used for
7 erosion and sediment control as well
8 as water quantity control, and then
9 when the project nears completion,
10 they are finally graded out with the
11 proper additional outlet control
12 structures to maintain both water
13 quantity and water quality that
14 they're designed for.

15 In addition, the Town requires
16 the applicant to post security for
17 the construction of those ponds so
18 that prior to getting final approval
19 on the project there will be bonding.
20 Should the applicant not complete the
21 project, the Town would have the
22 ability to complete the necessary
23 improvements to protect that, as well
24 as my office provides oversight
25 during the construction to make sure

1 E L M F A R M

2 the project is constructed per the
3 plans and that there is no erosion
4 and sediment control issue.

5 During the construction process
6 the Town is also regulated by the DEC
7 and they delegate it to my office,
8 the field review of that. The Town
9 has some checks and balances on the
10 developer.

11 The plan right now -- I know
12 Mr. Pitingaro said that they're
13 probably not going to clear it all
14 right now. It's not a phased plan.
15 It will be filed in one plat right
16 now. Sometimes projects will be
17 filed in separate plats. This is
18 right now designed to be filed all at
19 once so the developer can develop the
20 lots at his leisure or as they market
21 them.

22 It is limited to 5 acres
23 disturbance right now under the
24 Town's stormwater management
25 regulations and the DEC. They can

1 E L M F A R M

2 only, for lack of a better term, bite
3 off 5 acres at a time before they
4 stabilize it. My office also
5 monitors that.

6 As well, the applicant needs to
7 have a design professional submit
8 weekly reports on the stormwater
9 management and erosion and sediment
10 control. So there is that checks and
11 balances through the Town.

12 MR. HENDERSON: One other thing
13 is about the traffic. I almost got
14 rear ended three times this week
15 trying to pull in my driveway. These
16 cars come up behind you, like he
17 said, at least 60 miles an hour. I
18 had my left signal light on like
19 three houses back. Three times this
20 week I almost got rear ended on that
21 road.

22 MR. HINES: The enforcement
23 issues are not before this Board.
24 You may want to bring that to the
25 attention of the Town Board. They

1 E L M F A R M

2 often can direct the police resources
3 out there. I have seen issues where
4 people said that, they directed the
5 police, and all the local people got
6 tickets. That happened in one
7 development. It didn't work out very
8 well for the residents that came in
9 complaining because it was the locals
10 speeding.

11 That could be brought to the
12 Town Board. I know Scott Manley is
13 with the Town Board here now hearing
14 it. Those enforcement issues are
15 beyond the scope of the Town Board,
16 but stepped up enforcement through
17 the police may assist in that as
18 well.

19 CHAIRMAN EWASUTYN: Are there
20 any additional questions or comments
21 from the public?

22 The gentleman here.

23 MR. QUILEZ: My name is Pedro
24 Quilez. I reside at 94 Wells Road.

25 I'm directly adjacent to this

1 E L M F A R M

2 property, where that rock cutout is.
3 You can see how substantial the
4 cutout is. I can't see anything
5 around that bend. I've been almost
6 hit by buses, Town marked cars, drunk
7 patrons cutting through from the bar
8 at the end.

9 It's upsetting that someone can
10 profit at the expense of all the
11 surrounding families.

12 I have a newborn. I have a
13 daughter. There's not one day that I
14 feel I can come out of my driveway
15 and pull out safely. It's a shame
16 because I pay taxes like everyone
17 else. I think I should be able to
18 pull out of my home safe.

19 We bought this house in 2017.
20 I think all the studies that were
21 done -- I mean there's two or three
22 homes, a home next to me. I don't
23 know if they were taken into
24 consideration.

25 Say dividing the math by two

1 E L M F A R M

2 entrances, I don't think that's
3 factual because people are going to
4 cut across Wells anyway and go to the
5 second entrance.

6 CHAIRMAN EWASUTYN: Ken
7 Wersted, comments on that?

8 MR. WERSTED: You have the
9 stonewall in front of your house?

10 MR. QUILEZ: Yeah. The step.

11 MR. WERSTED: You may see some
12 improvement. I know there's
13 vegetation right next to your
14 property line. As that clearing
15 easement that's shown on the plan
16 cuts back that stonewall, that may
17 assist you a little bit in being able
18 to see further down Wells Road
19 looking in that direction, and vice
20 versa. Anybody coming in that
21 direction may have a better viewpoint
22 of you pulling in and out of your
23 driveway.

24 There may be some additional
25 vegetation at your property line that

1 E L M F A R M

2 could be cleared back that would
3 increase that.

4 It just depends on where that
5 vegetation is and aesthetically
6 whether you want to get a better view
7 or look at the trees when you look
8 out that side of the house.

9 MR. QUILEZ: You mean
10 vegetation that's my vegetation?

11 MR. WERSTED: I don't know
12 where it falls on the line --

13 MR. QUILEZ: Got you.

14 MR. WERSTED: -- is what I'm
15 saying.

16 MR. QUILEZ: My property is the
17 stonewall and the side. Nothing out
18 of mine is something I can remedy the
19 problem with. So I don't know in
20 that aspect, and that's a big
21 condition to say possibly.

22 We're talking -- I understand
23 you did a study. You're talking
24 about 52 residents, two cars per
25 resident, 100 and something extra

1 E L M F A R M

2 cars cutting through there on a daily
3 basis multiple times, I'd say easily.

4 I mean your study you're saying
5 is so many years old. You have no
6 new --

7 You were saying that everyone
8 has -- that the presence of cops has
9 increased in that area. You have
10 police at Fostertown because the
11 traffic is so substantial. You have
12 a lot of people cut through there. I
13 don't know if it's a combination of
14 people dropping their kids off.

15 I just don't feel that this
16 study is accurate.

17 Then taking into consideration
18 my property and you have all these
19 new homes. I mean I feel that has to
20 play a factor in what you guys are
21 considering.

22 MR. WERSTED: The maps that
23 they provide right now don't really
24 show where the vegetation limit is
25 relative to your property. I can

1 E L M F A R M

2 look at the map and, you know, it
3 looks like a pretty big parcel here.

4 Maybe we can meet up with Jason
5 afterwards and talk about where that
6 property line is and if there is
7 vegetation on your side or it's his
8 side.

9 I would note, Jason, that it
10 looks like there's a pond proposed on
11 that corner. Maybe you can
12 elaborate.

13 MR. PITINGARO: This area here?

14 MR. WERSTED: Maybe you can
15 elaborate on the landscaping or the
16 vegetation on that corner.

17 MR. PITINGARO: Again, there's
18 going to be some removal of this
19 ledge here. I do think there's going
20 to be an improvement in your sight
21 distance.

22 Obviously we have conceded that
23 there will be an increase in traffic.
24 That is, in fact, true.

25 I think the sight distance is

1 E L M F A R M

2 what's going to provide the
3 improvement just for exiting and
4 entering your driveway. I can tell
5 you that -- this is your lot here?

6 MR. QUILEZ: I was trying to
7 see it from here. It's the one
8 directly next to it. Adjacent to it.

9 MR. PITINGARO: Beyond it then?

10 MR. QUILEZ: No. Right next to
11 the property.

12 MR. PITINGARO: Moving towards
13 Fostertown?

14 MR. QUILEZ: Yes.

15 MR. PITINGARO: I believe this
16 is your residence right here. Your
17 driveway is to the -- more towards
18 Fostertown?

19 MR. QUILEZ: Yeah.

20 MR. PITINGARO: I would be glad
21 to visit your site and see what's
22 there. I don't know exactly what's
23 there in terms of vegetation. If
24 there was something we could do to
25 improve that visibility there,

1 E L M F A R M

2 whether it's on your property or on
3 this property, I don't think the
4 owner has any issue making that a
5 condition. They will be, obviously,
6 doing work right in that vicinity to
7 improve that. To do a little bit
8 more work I don't think is any heavy
9 lift for them.

10 I can't speak to how that
11 vegetation, as Ken said, has changed
12 over the last few years. I know that
13 there's quite a bit of right-of-way
14 there. That can be cleared as well.
15 It's something that this applicant
16 would be willing to do within the
17 right-of-way or within your property
18 if that was necessary and we found it
19 would be beneficial.

20 MR. QUILEZ: That would be a
21 condition I would like to go on
22 record for having.

23 You guys are more than welcome
24 to sit in my driveway and look. It's
25 not the vegetation. It's the actual

1 E L M F A R M

2 land. It's pretty bad.

3 MR. PITINGARO: Is it a
4 vegetation issue or is it the issue
5 of the ledge there?

6 MR. QUILEZ: The whole land.
7 It's the hill. It's not just a flat
8 area with trees. It's a hill.

9 MR. PITINGARO: Yeah. So that
10 is actually going to be cut back.

11 MR. QUILEZ: How far back?

12 MR. PITINGARO: Based on this
13 plan, I believe this is 100 scale,
14 it's going to be cut back -- the
15 total amount is about 15 feet. It
16 will be graded back. This whole
17 hatched area here is what we're
18 referring to.

19 You're more than welcome to
20 approach. If this is your driveway
21 and you look at this line of sight
22 here, we're doing exactly what
23 you're -- what I think your issue
24 really is is that if this is your
25 driveway, right, and this is the

1 E L M F A R M

2 turn, this is all being cleared. So
3 this is the improvement to the sight
4 distance that we're looking to make.

5 MR. QUILEZ: This is the
6 property line?

7 MR. PITINGARO: Yes.

8 MR. QUILEZ: I think this map
9 is wrong because my property is right
10 here. There is two houses.

11 MR. PITINGARO: There may be
12 another lot here.

13 MR. QUILEZ: I'm closer. This
14 has to move back substantially, and
15 then there's a pond here and that's
16 going to be right in my backyard.

17 MR. PITINGARO: There's going
18 to be a basin. Again, this is going
19 to be removed in terms of vegetation
20 and the rock there.

21 MR. QUILEZ: Okay. I mean what
22 about the mosquitos and all that
23 stuff?

24 MR. PITINGARO: It's not a wet
25 basin. These are dry basins.

1 E L M F A R M

2 MR. QUILEZ: What about the
3 flooding to my property? This is my
4 property. This is my backyard. This
5 whole thing is sloped towards mine.
6 So if there is water coming here,
7 it's going to flood my house.

8 MR. PITINGARO: This has an
9 outlet and it's directed to this pipe
10 here. It's not shown on the sheet
11 because this isn't the stormwater
12 sheet.

13 There's a control structure
14 that controls the elevation of the
15 water in here. There will be an
16 outlet in this direction here.

17 MR. QUILEZ: Okay.

18 MR. PITINGARO: This, as you
19 can see, is a proposed site easement.
20 This is all to be cleared, all of
21 this hatched area, and actually
22 literally removed back.

23 MR. QUILEZ: Okay. Okay. That
24 was my main thing, being able to see.
25 If I'm right here, this little bit

1 E L M F A R M

2 will make a difference for this
3 house. For me I need substantial. I
4 don't know if there's a way to make
5 sure that it's going to be enough.

6 MR. PITINGARO: I mean we can
7 look at that. I honestly think the
8 closer you get to this, when you take
9 it angle wise, you know, it's
10 actually -- well, I think it --

11 MR. QUILEZ: Plus people have
12 time to stop.

13 MR. PITINGARO: I think the
14 improvement is going to have more
15 effect on you, if you look at this
16 angle here, than it would have on
17 this gentleman here.

18 MR. QUILEZ: The driveways are
19 all matched up. His driveway is
20 here. My driveway is here. It comes
21 to my house, so it's the same issue.

22 I don't have time for anyone to
23 stop once everyone comes around here.
24 I just don't want to get hit here.

25 MR. PITINGARO: Okay. I can

1 E L M F A R M

2 look at that with Ken. If we need to
3 shift this clearing area a little
4 further back, it's not a problem for
5 us to do that.

6 MR. QUILEZ: Correct.

7 MR. PITINGARO: And again, this
8 is going to be graded beyond what the
9 sight distance requires.

10 MR. QUILEZ: Graded? It's
11 already high.

12 MR. PITINGARO: Yes. So we're
13 taking it down.

14 MR. QUILEZ: So you're grading
15 it. You're not going to go that low
16 and then grade it down?

17 MR. PITINGARO: We're not going
18 to go lower. We're going to shave
19 this back.

20 MR. QUILEZ: Okay. That's
21 fine. All right.

22 CHAIRMAN EWASUTYN: Are there
23 any additional questions or comments
24 from the public?

25 The gentleman here.

1 E L M F A R M

2 MR. FETTER: Bill Fetter,
3 Rockwood Drive.

4 With regard to the traffic,
5 would it be practical to just repeat
6 a traffic count and see how those
7 numbers compare to the numbers that
8 you had back in 2012, or whenever the
9 last count was? Not do an entire
10 study, just look at the numbers.

11 CHAIRMAN EWASUTYN: Ken
12 Wersted?

13 MR. WERSTED: Certainly. I've
14 been looking at some of the numbers
15 that are available to us right now.
16 On Fostertown Road in about 2010
17 there was about 5,000 cars a day on
18 Fostertown. In 2015 it had lowered
19 to about 4,400. That's the latest
20 data that DOT has available to us.

21 We can work with Jason to see
22 if there's any other additional
23 information, more recent.

24 Obviously we can say that
25 during the pandemic traffic has come

1 E L M F A R M

2 down quite substantially.

3 What happened between 2015 and
4 2019, that we don't know right now.

5 MR. FETTER: Thank you.

6 CHAIRMAN EWASUTYN: Are there
7 any additional questions or comments
8 from the public?

9 MR. QUILEZ: I apologize. This
10 is my first time ever attending one
11 of these.

12 I mean to repeat the study and
13 get new information with current
14 data, is that a big project to do?

15 MR. WERSTED: I wouldn't say --
16 it's all relative, but I wouldn't say
17 that it's a substantial project.

18 MR. QUILEZ: So why can't it
19 just be done rather than looking at
20 data that's old?

21 MR. WERSTED: Potentially it
22 could be. It's not for me to make
23 that decision.

24 MR. QUILEZ: Okay. I'm sorry.
25 My apologies.

1 E L M F A R M

2 MR. WERSTED: The point of
3 tonight is to gather these issues for
4 the Board to take into consideration
5 and evaluate.

6 MR. QUILEZ: So then whatever
7 concerns the gentleman spoke of, we
8 would touch base on it again to make
9 sure that they took that into
10 consideration, the pushing of the
11 hill further back?

12 CHAIRMAN EWASUTYN: It would be
13 part of the site plan approval
14 process and it would be noted in the
15 final resolution.

16 MR. QUILEZ: So then we just
17 come here again and revisit it again?

18 CHAIRMAN EWASUTYN: Not
19 necessarily revisit it at a meeting.
20 If the Board agrees, they would make
21 it a condition of final approval --

22 MR. QUILEZ: Got you.

23 CHAIRMAN EWASUTYN: -- and it
24 would be noted in the resolution.

25 MR. HINES: Those conditions

1 E L M F A R M

2 would be signed off by either my
3 office or Ken, which ever office is
4 appropriate.

5 MR. QUILEZ: So I would get
6 notice that that was agreed to?

7 MR. HINES: No.

8 MR. QUILEZ: So how do I know
9 he's just not telling me what I want
10 to hear and then --

11 MR. HINES: That's what our job
12 is.

13 MR. QUILEZ: My apologies.

14 MR. HINES: We're here
15 representing you on this side of the
16 table.

17 CHAIRMAN EWASUTYN: Sal?

18 MR. ROSSI: I have one more
19 question. I'm sorry.

20 When doing the traffic study,
21 okay, is the traffic study looked at
22 across the board or do you guys look
23 at the impact of that traffic during
24 the morning rush and the afternoon
25 rush? Do you look at those numbers

1 E L M F A R M

2 versus -- you know, I heard the 5,000
3 cars, you know, or whatever you
4 mentioned. But the brunt of those
5 vehicles are during the rush hours.

6 Again, you know, not to harp on
7 it, but you have a school there,
8 okay, and you have all these
9 developments converging at that
10 intersection.

11 I mean you could come sit in my
12 driveway in the morning. You can
13 hear the horns. You can hear people
14 screaming. I mean really, it is
15 ridiculous. Maybe it is a law
16 enforcement thing, but, you know, I
17 know the police have other things to
18 do and they can't be there 24/7,
19 anyhow. They can do it for a week
20 and slowly that whole situation will
21 creep back, you know.

22 I mean it's hard to understand
23 if you don't live there, you know. I
24 know if you don't see it, it doesn't
25 bother you. But it bothers me. It

1 E L M F A R M

2 bothers the hell out of me.

3 MR. WERSTED: The traffic
4 counts will typically count multiple
5 days all hours so we can see how
6 those volumes change over time
7 throughout the day. As you can
8 expect, overnight it's very low. It
9 gradually builds in the morning,
10 there's typically a spike during that
11 morning commuter hour which typically
12 coincides with the elementary school,
13 then there may be a lull in the
14 middle of the day, it may pick back
15 up again for the school dismissal and
16 again for the evening commute home.
17 With that range of different traffic
18 volumes throughout the day, the
19 traffic engineer would focus in on
20 those peaks and identify, you know,
21 so let's not look at 2:00 in the
22 morning, let's not look at 10 a.m.,
23 let's look at 7:00 to 9:00 and maybe
24 3:00 to 6:00 in the afternoon and
25 focus their analysis on those time

1 E L M F A R M

2 periods, and then even within those
3 periods they can focus down into a
4 peak 15 minutes.

5 So we're really looking at
6 those worst case times and not
7 really -- not as concerned about the
8 middle of the day or the middle of
9 the night. If your impacts that are
10 identified during the peaks are, you
11 know, X, Y, Z, then certainly at
12 those off-peak hours it's better than
13 that.

14 MR. ROSSI: So that was done in
15 this study?

16 MR. WERSTED: Correct.

17 MS. MALCOLM: I just have one
18 very pertinent factor regarding the
19 traffic.

20 I don't know who is going to be
21 moving into these houses but I would
22 assume many of them are going to be
23 working in Connecticut, New York
24 City. As it is now, people don't go
25 down Fostertown Road to the Balmville

1 E L M F A R M

2 intersection. That's horrendous.
3 It's horrendous traffic at commuting
4 time. They're not going to go that
5 way. They're not going to go down to
6 the end of Wells Road where, you
7 know, Brewer and the other roads come
8 in and then they have to wait without
9 any stop sign or anything to get out
10 onto 300 to go down to 84. If they
11 want to go to the Thruway, they come
12 up to the Fostertown intersection.

13 I hate to say this, but whoever
14 put that stoplight up there, it's a
15 carnival light with the little
16 circles. It's a horrible light.

17 Anyway, that intersection has
18 New Road. So they're going to come
19 up there, they're going to go over
20 New Road to get to 84. They are also
21 going up Weyants Lane if they want to
22 get over to 84. New Road they can go
23 both ways, to the Thruway and 84.
24 But that's where a lot of the traffic
25 is going, over New Road and Weyants

1 E L M F A R M

2 Lane, to get to the major highways.
3 That really needs to be incorporated
4 into the study.

5 CHAIRMAN EWASUTYN: Further
6 questions or comments?

7 MR. LEONARD: Robert Leonard.
8 I live at 91 Wells. I'm right across
9 from Pedro.

10 You're doing all the studies on
11 the straight road with no
12 intersections in it. Now you're
13 going to put an intersection into a
14 big development with multiple cars
15 coming down, going somewhere all the
16 time.

17 Wells Road is very full of
18 traffic all the time, especially at
19 school times. You have the school
20 buses. All the school buses go down
21 that road.

22 There's a tremendous amount of
23 people that use it as a cut through.
24 They cut off a whole section of 32 if
25 they go down there and go down

1 E L M F A R M

2 Fostertown and hit 32.

3 Now you've got this
4 intersection you're going to put in
5 there with all these cars coming
6 down. What's going to control that
7 intersection? You're just going to
8 put a stop sign up and that's it?
9 They'll all be dead because people
10 travel through there very fast and
11 the road is not straight. It's
12 curved. It curves around and it
13 curves just before Pedro's house.

14 I don't know how they're
15 planning on dealing with all of this,
16 and that's what I'd like to know.
17 How are you going to control that
18 intersection?

19 CHAIRMAN EWASUTYN: Which
20 intersection are you referring to?

21 MR. LEONARD: The new one.

22 CHAIRMAN EWASUTYN: Where it
23 comes out onto Wells Road?

24 MR. LEONARD: Right.

25 MR. PITINGARO: There's not

1 E L M F A R M

2 going to be a traffic light there, if
3 that's what you're asking. There
4 would be a stop sign.

5 I think often people have the
6 misconception that a traffic light is
7 going to cause a vast improvement.
8 It takes a lot to warrant a traffic
9 signal.

10 As Ken mentioned, the peak
11 hourly number as referred to was
12 something in the order of 50. Again,
13 there's two exits from the
14 development, so --

15 MR. LEONARD: But Wells is the
16 primary because Wells will go over to
17 32 going down Fostertown the other
18 way. That seems to be the favorite
19 of everybody.

20 The other lady is on New Road
21 which is also a highly traveled road
22 to cut through. I don't like that
23 road. It doesn't get the volume that
24 Wells does because of the angle it
25 shoots at.

1 E L M F A R M

2 It's just -- how do you control
3 that? Like I said, you're going to
4 put up a stop sign or you're going to
5 put up multiple stop signs. Are you
6 going to do a three-way?

7 MR. PITINGARO: What's proposed
8 now is a single stop sign. Again, I
9 don't know that a three-way stop sign
10 is warranted.

11 MR. LEONARD: Well, the speed
12 limit is only 30 miles-an-hour on
13 that road.

14 MR. PITINGARO: Exactly.

15 MR. LEONARD: Nobody does 30.

16 MR. PITINGARO: If the speed
17 limit was more, I think a stoplight
18 would be warranted.

19 Again, an enforcement issue and
20 a control issue is different than a
21 design issue.

22 I can speak from experience or
23 from personal experience to this, but
24 right in the vicinity where I live
25 there were three young teenagers

1 E L M F A R M

2 killed just two years ago and the
3 reaction was to put up a traffic
4 light.

5 MR. LEONARD: Traffic lights,
6 no.

7 MR. PITINGARO: What I can tell
8 you is that that traffic light has
9 been reverted to a flashing yellow
10 and not used in terms of an actual
11 traffic light.

12 The same thing with the stop
13 sign, too. Even if three stop signs
14 were put in position there, again if
15 you're approaching them too quickly
16 as was mentioned, there's still going
17 to be reactions and those types of
18 things.

19 There's not anything that can
20 be done in terms of the engineering
21 aspect to control those types of
22 situations.

23 CHAIRMAN EWASUTYN: Are there
24 any further questions or comments?

25 MR. INGRAM: I'm sorry. Just

1 E L M F A R M

2 one more.

3 Again, with my property where
4 it's located at, my well is like 10,
5 15 foot off of my property line
6 there. It abuts this new property.
7 What happens if I start having well
8 problems because of them digging or
9 whatever? Is it going to change the
10 water table? I know there's no way
11 to guess that, but what can I do if
12 that starts happening? My neighbor
13 right next to me, her well is right
14 there also.

15 CHAIRMAN EWASUTYN: Pat Hines?

16 MR. HINES: This project is
17 connecting to Town water and Town
18 sewer, so you don't have 52 houses
19 taking out of the same aquifer as
20 you, which may be more of a concern.

21 These lots wouldn't be that
22 size if they were on wells and
23 septics. Because they have the water
24 and sewer available, they're getting
25 an increased density.

1 E L M F A R M

2 The stormwater ponds are going
3 to have some infiltration in them by
4 design under current standards. That
5 water that used to run off the site
6 will be held within those ponds to
7 allow it to infiltrate.

8 This project isn't, quite
9 frankly, responsible for your well.

10 MR. INGRAM: Yeah, but they're
11 digging or whatever.

12 MR. HINES: They're also
13 running water lines through there
14 which may be available to you should
15 something happen to your well.

16 MR. INGRAM: So then they'd
17 have to get an easement or something
18 to go through the property to come
19 over to me?

20 MR. HINES: They're going to be
21 pretty close to you.

22 MR. PITINGARO: What I would
23 say is that if you are using a
24 residential well in a moderate
25 home -- I don't know when your home

1 E L M F A R M

2 was built. After the '70s?

3 MR. INGRAM: 2001.

4 MR. PITINGARO: Okay. So it's
5 probably a well that's over 200 feet
6 deep, 180 feet deep. The groundwater
7 table serving that well is not going
8 to be affected by this work here.

9 You, if I remember correctly,
10 are one of the residences up here.

11 MR. INGRAM: Yes.

12 MR. PITINGARO: This site
13 generally drains in this direction.
14 We're not going to be intercepting
15 any surface water flow that would be
16 getting to you and infiltrating into
17 your property and feeding your well.
18 The groundwater table is not going to
19 be affected from this project at the
20 depth that your well is at.

21 MR. INGRAM: Okay. Thank you.

22 CHAIRMAN EWASUTYN: Final
23 questions or comments from the
24 public?

25 (No response.)

1 E L M F A R M

2 CHAIRMAN EWASUTYN: At this
3 time I'll turn it over to Board
4 Members. Frank Galli?

5 MR. GALLI: No additional. We
6 had this before us for a lot of years
7 and I think a lot of things have
8 changed over a few years.

9 Traffic in the Town has changed
10 over the years. Right now a lot of
11 people work from home, they commute,
12 they don't commute.

13 I think we're better off seeing
14 housing here individually than
15 apartment buildings. I'm just glad
16 that the gentleman that's developing
17 it is developing it as a housing
18 development and not an apartment
19 complex.

20 He's following all the
21 regulations that we ask.

22 That's all I have to say, John.

23 CHAIRMAN EWASUTYN: Stephanie
24 DeLuca?

25 MS. DeLUCA: I've been very

1 E L M F A R M

2 impressed with the conversation
3 that's been going on and the concerns
4 that you have regarding the traffic.
5 I travel that way often and I'm from
6 that area.

7 I would be interested in seeing
8 what can be done as far as putting
9 something on record and also the
10 conditions about the traffic.

11 CHAIRMAN EWASUTYN: Ken
12 Mennerich?

13 MR. MENNERICH: I would agree
14 with Stephanie that there's been --
15 that seems to be the major concern
16 that's been expressed tonight from
17 the audience here. We appreciate
18 that input.

19 CHAIRMAN EWASUTYN: Okay. Dave
20 Dominick?

21 MR. DOMINICK: I concur.
22 Speed, safety has been an issue.

23 Maybe a suggestion, Sal. You
24 and your neighbors may approach the
25 Town Board, see about speed bumps,

1 E L M F A R M

2 something long term. They did it in
3 Meadow Hill. It slowed down that
4 area. I believe that's 30
5 miles-an-hour. Powder Mill Road, 30
6 miles-an-hour, speed bumps. That
7 might be an option to look at.

8 One thing, Pat, Tim brought up
9 was the buffer, his back. Jason was
10 a little vague, we want privacy just
11 as much as you do. Can we get more
12 of a finite number on that? Can you
13 do a buffer in that area, like 50
14 feet or something like that?

15 MR. HINES: There's not 50
16 feet. I'm not seeing Tim's name on
17 the lot here.

18 MR. INGRAM: It's listed as
19 Sampson.

20 MR. HINES: I got you now. You
21 own two lots.

22 MR. PITINGARO: It's in the
23 vicinity of Lots 5, 6, 7.

24 MR. HINES: I got you. Sampson
25 I have. I'll take a look at the

1 E L M F A R M

2 grading plan.

3 MR. PITINGARO: What I would
4 mention about that area there, it's
5 not illustrated on this map, but
6 lots 5, 6, 7 and 8 have some of the
7 least amount of grading on them in
8 the rear.

9 The expectation is that there's
10 only going to be disturbance right in
11 the vicinity of the home itself.
12 Again, there's water and sewer so
13 there's not going to be the need to
14 clear for a septic and those types of
15 things.

16 There's some need to include --
17 let me just look here. The buffer in
18 terms of the setback line is 40 feet.
19 If you wanted us to keep that and
20 maintain that buffer, I don't think
21 that that's any trouble. We're well
22 within that buffer in terms of what
23 we have for the grading area there.

24 MR. HINES: The current grading
25 in that vicinity for lots 7 and 8,

1 E L M F A R M

2 which are the closest, is
3 approximately 40 to 50 feet from your
4 lot based on this grading plan.

5 There is no buffer depicted
6 there. We don't buffer residential
7 to residential. It's not in our
8 code. It's not something this Board
9 usually does.

10 The grading on lots 7 and 8 are
11 40 feet away from your property line.

12 MR. DOMINICK: Thanks, Pat. I
13 appreciate that. That's more of a
14 number that I wanted to hear. Thank
15 you.

16 CHAIRMAN EWASUTYN: John Ward?

17 MR. WARD: Basically that was
18 my question to you. Not just him,
19 but other residents, if you could try
20 to keep a buffer.

21 MR. PITINGARO: Again, I know
22 the Board probably has a full set of
23 plans. The easiest sheets to look at
24 would probably be 7 and 8. Those are
25 the sheets that show the grading.

1 E L M F A R M

2 The 40 foot is probably, frankly, the
3 minimum buffer or area that's -- the
4 closest that we're going to be
5 grading to the property line.

6 The other thing I would offer
7 is that I have myself recently been
8 out there and it's very dense. 40
9 foot of very dense woods is going to
10 create quite a substantial buffer.
11 That's in addition to any buffer that
12 the adjoiner may already have on
13 their property as well.

14 MR. WARD: Thank you.

15 When we first had described it,
16 the whole issue was the speeding and
17 the curve there, and you did correct
18 a lot of it. Just so the public
19 knows, it's a big difference from the
20 beginning.

21 When Dave said speed bumps,
22 they worked on Meadow Hill. They got
23 the school there. When you go to the
24 park, they've got speed bumps there.
25 They have no choice. That's not our

1 E L M F A R M

2 -- we can't approve something like
3 that. That's the Town Board or the
4 Highway Department.

5 Thank you.

6 CHAIRMAN EWASUTYN: Ken
7 Wersted, in summary, looking at the
8 traffic, updating the traffic, what
9 are your suggestions to the Board?

10 MR. WERSTED: There are a
11 couple of things that the applicant
12 could do.

13 They could go out and take new
14 traffic counts. They could put
15 counters out on Wells Road that would
16 collect both the volumes and also the
17 speeds on the road. They could count
18 the intersections and their traffic
19 engineering consultant can make
20 accommodations for the pandemic.
21 They can estimate if we didn't have a
22 pandemic how would people behave
23 normally, and certainly take the
24 traffic from the current project and
25 do a comparison of here are the

1 E L M F A R M

2 traffic conditions before the
3 project, here are the traffic
4 conditions after the project, and in
5 comparison of those two conditions
6 that would represent the impact of
7 the project.

8 So that's kind of the
9 indication that I'm hearing from the
10 Board. I can work with their Traffic
11 Consultant to develop that and answer
12 any questions that they might have.

13 CHAIRMAN EWASUTYN: Thank you.
14 So you'll prepare an outline, they'll
15 look at that outline and eventually
16 make that a condition of final
17 approval for what might have to be
18 updated?

19 MR. WERSTED: Yes, I can do
20 that.

21 CHAIRMAN EWASUTYN: Jim
22 Campbell?

23 MR. CAMPBELL: No additional
24 comments.

25 CHAIRMAN EWASUTYN: Pat Hines

1 E L M F A R M

2 with McGoey, Hauser & Edsall?

3 MR. HINES: I provided the
4 applicant with my comments.

5 The majority of them are
6 regarding conditions of approval and
7 re-signing the approvals that they do
8 have. I know I provided them to
9 Dominic as well.

10 We did go over the 2015
11 resolution. I believe that all of
12 those comments remain -- or
13 conditions of approval remain valid
14 and should be incorporated into any
15 future conditions or any future
16 approvals issued by the Board.

17 CHAIRMAN EWASUTYN: Can we
18 close the public hearing, not make a
19 decision as to waive the 62-day
20 timeframe until we have the studies
21 to back up our decision?

22 MR. PITINGARO: If you're
23 asking for my consent to waive the 62
24 days, I think we would consent to
25 that. I don't think that typically

1 E L M F A R M

2 the applicant --

3 MR. HINES: I think the
4 applicant is here.

5 MR. PITINGARO: He has arrived,
6 yes. As I said, he was,
7 unfortunately, delayed.

8 I don't think it would be in
9 our best interest to not waive the 62
10 days.

11 CHAIRMAN EWASUTYN: I think
12 that would give us the supporting
13 information that we need.

14 MR. PITINGARO: And I can work
15 with Ken to see whatever information
16 is currently available.

17 We are in discussions with the
18 Orange County Highway Department and
19 we can see if they have any more
20 updated data. If need be, we can
21 develop some additional data for the
22 area.

23 CHAIRMAN EWASUTYN: So is the
24 Board in a position to close the
25 public hearing?

1 E L M F A R M

2 The applicant is willing to
3 waive the 62-day timeframe to make a
4 decision. We'll get the supporting
5 documentation and also incorporate
6 any mitigating measures that need to
7 be listed in the conditional final
8 approval subject to the information
9 we're going to be provided.

10 MR. GALLI: Yes.

11 MS. DeLUCA: Yes.

12 MR. MENNERICH: Yes.

13 MR. DOMINICK: Yes.

14 MR. WARD: Yes.

15 CHAIRMAN EWASUTYN: Would
16 someone make the motion to close the
17 public hearing and the applicant
18 agrees to waive the 62-day timeframe?

19 MR. WARD: So moved.

20 MR. DOMINICK: Second.

21 CHAIRMAN EWASUTYN: I have a
22 motion by John Ward. I have a second
23 by Dave Dominick. Is there any
24 discussion of the motion?

25 (No response.)

1 E L M F A R M

2 CHAIRMAN EWASUTYN: Can I have
3 a roll call vote starting with Frank
4 Galli.

5 MR. GALLI: Aye.

6 MS. DeLUCA: Aye.

7 MR. MENNERICH: Aye.

8 CHAIRMAN EWASUTYN: Aye.

9 MR. DOMINICK: Aye.

10 MR. WARD: Aye.

11 CHAIRMAN EWASUTYN: Thank you.

12 MR. HINES: This will be
13 scheduled on a future Board agenda.
14 The agendas are posted on the Town's
15 website if you want to follow that.
16 They'll be back before this Board
17 once that traffic data is collected.

18 MR. PITINGARO: Thank you.

19

20 (Time noted: 8:11 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 3rd day of January 2022.

Michelle Conero

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

DANSKAMMER ENERGY
(2021-24)

994 River Road
Section 8; Block 1; Lots 75.211, 75.22,
75.42 & 75.3
I Zone

----- X

CLEARING & GRADING

Date: December 16, 2021
Time: 8:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JOHN FURST

----- X

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

1 D A N S K A M M E R E N E R G Y

2 CHAIRMAN EWASUTYN: The fourth
3 item on the agenda this evening is
4 Danskammer Energy, project number
5 21-24. It's before us tonight for a
6 clearing and grading. It's located
7 on River Road in an I Zone and it's
8 being represented by SCS Engineers.

9 MR. FURST: Good evening. My
10 name is John Furst. I'm an attorney
11 at Catania, Mahon & Rider. We
12 represent Danskammer. I'm pinch
13 hitting for Tom Gray. He's the CFO
14 of Danskammer.

15 We had provided a presentation
16 at our last -- the last time we were
17 here back in October. This is
18 actually our second meeting.

19 I apologize that I don't have a
20 board. It was an emergency
21 situation. He had a COVID-related
22 issue, so he couldn't make it
23 tonight.

24 Just to kind of update the
25 Board from the last meeting, the

1 D A N S K A M M E R E N E R G Y

2 Board had -- the project itself --
3 first, let me take a step back.

4 This is a clearing and grading
5 permit. It's in connection with the
6 DEC approved landfill closure plan.
7 The project is really for the
8 installation of a final cover. So
9 they have to grade the existing
10 landfill in order to install this
11 final cover which has already been
12 approved by the DEC. It's all part
13 of a landfill closure plan that has
14 been approved and neg dec'd by the
15 DEC.

16 At our last meeting back in
17 October you guys had requested the
18 submission of a long form EAF which
19 we have provided.

20 We also provided the mailings
21 which went out.

22 We also submitted some SWPPP
23 documents to your engineer. SCS
24 provided some comments to Pat Hines,
25 some technical comments in response

1 D A N S K A M M E R E N E R G Y

2 to his technical comments.

3 So that's kind of where we are
4 from the last meeting to here. We're
5 hoping to --

6 I have Ed Hall and John McGahan
7 here from the plant if you have any
8 technical questions.

9 Again, I apologize, I'm a last
10 minute sub so I'm trying to do the
11 best I can.

12 If you have any questions,
13 we're here. There you go.

14 CHAIRMAN EWASUTYN: Pat Hines,
15 procedurally where are we tonight?

16 MR. HINES: The project
17 requires a public hearing under the
18 clearing and grading ordinance.
19 Normally this Board doesn't schedule
20 public hearings until you've made a
21 SEQRA determination.

22 I did request a full
23 environmental assessment form. That
24 was based on my belief that this was
25 going to be a Type 1 action.

1 D A N S K A M M E R E N E R G Y

2 I reviewed the DEC permits that
3 were provided as well as the SEQRA
4 information that the DEC performed
5 under their permit. They identified
6 the project as an Unlisted action, so
7 I believe that -- I would hope that
8 they are the ones that would type the
9 action correctly.

10 I'm under the opinion now that
11 this could be classified as a Type 1
12 action consistent with DEC's previous
13 review.

14 MR. CORDISCO: Unlisted action.

15 MR. HINES: Unlisted. Unlisted
16 action.

17 So the Board would be in a
18 position at this point to make a
19 SEQRA determination noting that DEC
20 has already made one.

21 They did say that other
22 involved agencies may reach an
23 independent determination of
24 environmental significance because
25 DEC did not do a coordinated review

1 D A N S K A M M E R E N E R G Y

2 once they identified it as an
3 Unlisted action. So the Board would
4 have to make their independent SEQRA
5 determination.

6 CHAIRMAN EWASUTYN: Would you
7 recommend to the Board then we
8 declare a negative declaration?

9 MR. HINES: I would. After
10 reviewing the full environmental
11 assessment form submitted, we would
12 recommend a negative declaration and
13 scheduling of the public hearing.

14 CHAIRMAN EWASUTYN: All right.
15 Having heard from Pat Hines from
16 McGoey, Hauser & Edsall, would
17 someone move to declare a negative
18 declaration and set this for the 20th
19 of January for a public hearing?

20 MR. GALLI: So moved.

21 MR. MENNERICH: Second.

22 CHAIRMAN EWASUTYN: I have a
23 motion by Frank Galli. I have a
24 second by Ken Mennerich. May I
25 please have a roll call vote.

1 D A N S K A M M E R E N E R G Y

2 MR. GALLI: Aye.

3 MS. DeLUCA: Aye.

4 MR. MENNERICH: Aye.

5 CHAIRMAN EWASUTYN: Aye.

6 MR. DOMINICK: Aye.

7 MR. WARD: Aye.

8 CHAIRMAN EWASUTYN: So you'll
9 work with Pat Hines as far as the
10 notice of hearing?

11 MR. FURST: Correct.

12 CHAIRMAN EWASUTYN: Thank you.

13 MR. FURST: And the referral to
14 the County, does this trigger a
15 County referral?

16 MR. HINES: I see no reason why
17 it has a County referral. There's
18 nothing within 500 feet.

19 MR. FURST: Thank you. I just
20 wanted to confirm.

21 Thank you very much. Have a
22 good night.

23 MR. CORDISCO: We don't refer
24 clearing and grading permits.

25 MR. HINES: They're not a 239

1 D A N S K A M M E R E N E R G Y

2 action on a site plan.

3 MR. FURST: Great. Thank you.

4 (Time noted: 8:17 p.m.)

5

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

7

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

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

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

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand this 3rd day of January 2022.

20

21

22

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24

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Michelle Conero

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X
In the Matter of

NEWBURGH COMMERCE CENTER/SCANNELL
(2021-21)

124 Route 17K
Section 95; Block 1; Lot 58
IB Zone

- - - - - X

SITE PLAN

Date: December 16, 2021
Time: 8:17 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ZACHARY ZWEIFLER
& DAVID EVERETT

- - - - - X

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

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 CHAIRMAN EWASUTYN: The fifth
3 item of business this evening is the
4 Newburgh Commerce Center/Scannell.
5 It's project number 21-21. It's a
6 site plan located on Route 17K in an
7 IB Zone. It's being represented by
8 David Everett.

9 MR. ZWEIFLER: My name is
10 Zachary Zweifler from Scannell
11 Properties.

12 A very quick introduction. We
13 were here a little bit earlier in the
14 fall with our preliminary site plan,
15 our sketch plan.

16 We have a 132,000 square foot
17 building we're proposing right off of
18 Route 17K with one access point here
19 with one outgoing, two outgoings left
20 and right, 107 car parking spaces and
21 then a truck yard on the west side of
22 the site. We have 44 trailer parking
23 spots and a dock.

24 We went ahead and commissioned
25 a sound study. We have some sound

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 walls that are showing on here.

3 We've done a visual analysis
4 that's included in the EAF as well.
5 Based on that, we are doing a little
6 bit more than required by code. The
7 landscaping plan shields the
8 building. When you look at the
9 visual assessment, there's really no
10 visibility of the building at all
11 from the street or from any of our
12 neighboring properties, residential
13 properties on the southeast side,
14 northeast side and then to the
15 southwest side.

16 Based on our last review we had
17 gone to the ZBA for an assessment of
18 the 500-foot setback variance. We
19 were there on November 24th and
20 received their approval on that
21 variance as well.

22 So again, I know that we
23 submitted probably a little too much
24 information, all the submittals that
25 look like that. We tried to be

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 pretty exhaustive with our analysis
3 and review of the project. We tried
4 to give you everything that we needed
5 to.

6 If you want more details, I'll
7 be happy to go through it.

8 CHAIRMAN EWASUTYN: I'm sorry.
9 I didn't really hear your closing few
10 sentences.

11 MR. ZWEIFLER: I just said
12 hopefully that's a good introduction
13 to support the conversation.

14 CHAIRMAN EWASUTYN: Dave
15 Everett, do you have anything to add?

16 MR. EVERETT: Not at this time,
17 Mr. Chairman.

18 CHAIRMAN EWASUTYN: Just as a
19 general note, on your landscape plan
20 you didn't note the quantity of
21 plants that you plan on putting in.
22 You list the names, you list the
23 height. We don't have any
24 information as far as the quantity of
25 those species. That is a

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 requirement.

3 MR. ZWEIFLER: Absolutely.

4 CHAIRMAN EWASUTYN: That's just
5 a general note.

6 Talk to us a little bit about,
7 at least from my end of it, the wall
8 that you're proposing to put up. Do
9 you have any graphics on that wall?

10 MR. ZWEIFLER: Absolutely. I
11 think we do.

12 CHAIRMAN EWASUTYN: This was
13 something that was brought up at the
14 ZBA meeting?

15 MR. ZWEIFLER: Yeah. So
16 specifically, my apologies, we tried
17 to cover the walls with the trees.
18 You can kind of see it here. If I
19 can I'll come over closer because it
20 is really, really hard to see.

21 That's the gray and white, the area
22 that is kind of peeking out through
23 the trees. You can also see it on
24 that view as well.

25 So we were looking at doing a

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 product which is a prefabricated
3 sound wall. It also provides both
4 visual and audio protection.

5 So with that, there's two
6 different heights. One part of the
7 wall is going to be 11 feet. That's
8 over here. That's being measured off
9 of the nearest pavement. It's not
10 measured off of the actual ground.
11 Then this wall is being proposed at
12 13 feet. Again, off the pavement,
13 not necessarily the ground.

14 And both walls will be, again,
15 with a prefabricated vinyl material
16 so there's no maintenance. We're
17 using the color scheme to match the
18 building and stay with that earth
19 tone color palette that we're trying
20 to keep for the whole site.

21 MR. GALLI: The trees you're
22 going to plant are going to be 14
23 feet high?

24 MR. ZWEIFLER: I think at full
25 maturity, yes.

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 MR. GALLI: So initially when
3 they're going to be planted, they're
4 going to be higher than the wall?

5 MR. ZWEIFLER: At full
6 maturity. The initial planting, we
7 were looking at 6 feet. 6 to 8.

8 CHAIRMAN EWASUTYN: The trees
9 you show as being 12 to 14 feet, 2.5
10 to 3-inch caliper. The evergreens
11 you list as being 8 to 10 feet.
12 That's just as a matter of
13 conversation.

14 Frank Galli, any questions or
15 comments?

16 MR. GALLI: I'm sure it will
17 come up later. Since the approval at
18 the Zoning Board has the size of the
19 building changed?

20 MR. ZWEIFLER: From our initial
21 application when we came in with the
22 sketch plan, it was a slightly
23 smaller building. I think we were at
24 127 or so thousand square feet. That
25 was really before we had gone through

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 with all of our --

3 MR. GALLI: What did the ZBA
4 approve?

5 MR. ZWEIFLER: They looked at
6 this, the updated site plan.

7 MR. GALLI: How many square
8 feet did they say you have?

9 MR. ZWEIFLER: The site plan
10 was 132.

11 MR. GALLI: That's the site
12 plan they approved?

13 MR. ZWEIFLER: That's the one
14 they saw, yes. And then the setback
15 has been consistent from the first
16 site plan when we were here back in
17 the beginning of the fall.

18 MR. GALLI: Okay.

19 CHAIRMAN EWASUTYN: As far as
20 the application fee that you paid, I
21 think it was based on 127,000 square
22 feet. Based upon the code it's \$250
23 for every additional thousand square
24 feet. So just for checks and
25 balances, when you have a chance to

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 calculate it, if we can have a check
3 to cover the difference in cost.

4 MR. ZWEIFLER: Absolutely.

5 CHAIRMAN EWASUTYN: Jim?

6 MR. CAMPBELL: I was not at the
7 Zoning Board meeting, but in the
8 minutes of the Zoning Board meetings
9 it is referenced at 127,000.

10 MR. ZWEIFLER: I can tell you
11 we had this exact site plan.

12 MR. CAMPBELL: Whoever
13 presented --

14 MR. ZWEIFLER: It was -- I
15 believe they finalized it. They had
16 a copy of this site plan when we went
17 to the Zoning Board.

18 MR. CAMPBELL: What happens is
19 if they approved the 127 and now it's
20 132, you're going to end up having to
21 go back to them.

22 MR. ZWEIFLER: Understood.
23 They definitely had this in their
24 records. They saw this site plan
25 when we were with them in November.

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 MR. CAMPBELL: That will have
3 to be clarified.

4 MR. ZWEIFLER: They definitely
5 saw this.

6 CHAIRMAN EWASUTYN: Stephanie
7 DeLuca?

8 MS. DeLUCA: No questions.

9 CHAIRMAN EWASUTYN: Ken
10 Mennerich?

11 MR. MENNERICH: No questions.

12 CHAIRMAN EWASUTYN: Dave
13 Dominick?

14 MR. DOMINICK: None.

15 MR. WARD: No questions at this
16 time. Thank you.

17 CHAIRMAN EWASUTYN: Ken
18 Wersted, you looked at the traffic
19 study on the project?

20 MR. WERSTED: Yes. We had
21 several technical comments that we
22 provided to the applicant in general.

23 The site driveway isn't
24 expected to have any significant
25 cueing on it.

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 We did note that because it is
3 a flex space, they have included a
4 mix of different potential uses
5 within that. Those assumptions
6 essentially give us a limit on the
7 amount of traffic that the building
8 could possibly generate.

9 If a tenant were to come in and
10 say I want to build -- I want to take
11 the entire space as office, those
12 numbers will go up. If someone were
13 to come in and say I want the entire
14 space as a warehouse, those numbers
15 would come down.

16 We believe the approach is
17 generally acceptable. However, as
18 the project progresses, we would want
19 conditions that if the project were
20 to come back and have a tenant that
21 is generating more, that there's
22 enough to look at it so that we can
23 ensure that the project relative to
24 SEQRA is being covered.

25 We had a couple of comments on

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 the widening that's proposed on
3 Route 17K. It's proposed to move
4 towards the site. It moves the edge
5 of pavement very close to the
6 right-of-way line in certain areas.
7 There are several residential houses
8 to the west and to the east. I
9 believe that the applicant has had
10 discussions with DOT where those
11 comments had been brought up. All of
12 that will need to be looked at and
13 addressed.

14 We generally agreed with the
15 distribution of traffic, the time
16 periods that were studied. We did
17 have some comments relative to the
18 growth factors that they used and
19 making adjustments for the pandemic.

20 They had noted that the traffic
21 counts that they had collected were
22 comparable to some historical
23 information from 2014. However,
24 traffic may have changed from 2014 to
25 2019. Their traffic engineer will

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 have to take a look at that and
3 account for those.

4 Relative to trucks, they had
5 estimated approximately 5 percent of
6 the building mix would be trucks
7 coming in and out. We had looked at
8 recent traffic counts from Corporate
9 Boulevard. Also as part of the study
10 they had looked at the Matrix, Orr
11 Avenue and Route 17K intersection,
12 both of which had truck percentages
13 ranging from 5 percent up to 65
14 percent. We would ask them to take a
15 look at that more in depth and at
16 least account for if there needs to
17 be additional truck traffic coming in
18 and out. The trucks are limited to
19 this site. Other than coming in and
20 out and going onto 17K, which is
21 obviously a truck route, it shouldn't
22 be affecting any other areas
23 throughout there.

24 That is basically a summary of
25 the comments that we gave.

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 CHAIRMAN EWASUTYN: Pat Hines
3 with McGoey, Hauser & Edsall?

4 MR. HINES: Sure. We're going
5 to need a copy of the variance
6 approval, once it's written, for the
7 Board's records. I know Jim is
8 looking at the minutes right now. We
9 don't have the approval.

10 There are existing structures
11 on the site to be removed. A
12 demolition permit is required. A
13 note on the plans stating that a
14 permit is required should be added.

15 Review of the EAF identifies
16 some threatened and endangered
17 species. I know you did a report,
18 but that report should be submitted
19 to DEC and Fish and Wildlife to get
20 their response for our SEQRA review.

21 The narrative report in the EAF
22 states that the project is consistent
23 with Town zoning, but you need a
24 requirement. I think that statement
25 should be revised in the EAF.

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 A City of Newburgh flow
3 acceptance letter will be required
4 for sewage discharge.

5 DOT approval, as Ken mentioned.

6 Orange County Planning review
7 will be required on the State
8 highway.

9 We do note that the stormwater
10 pollution prevention plan has been
11 submitted and is under review by my
12 office.

13 The project narrative keeps
14 referring to flex space. While that
15 may be a real estate term, that term
16 does not appear in our zoning, in our
17 bulk tables. I think it should be
18 clarified as to what the use of the
19 building is going to be or what
20 percentage is office, what percentage
21 is warehouse, unless you can prove
22 that you've done the worst case, like
23 the whole thing was office or
24 something. We need to know what
25 we're approving. I know that real

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 estate term is pretty popular. We're
3 looking at a single building here and
4 want to know what it is that the
5 Board is approving. It affects the
6 parking, the traffic and those kind
7 of things.

8 There's a parking reservation
9 on the bulk table and a portion of
10 the site shows parking that could be
11 constructed in the future. We need
12 some information on what would
13 trigger that. Typically notes on the
14 plans and the resolution would be
15 triggered by a request of the
16 Building Department. And then what
17 that area is going to look like prior
18 to construction if it isn't
19 constructed. Is it going to be
20 graded? So we need some more
21 information on that, I'll say land
22 banked parking area.

23 The project is located in the
24 City of Newburgh's watershed for
25 Washington Lake. I did note that

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 the -- my initial review of the SWPPP
3 does identify that you used the 110
4 percent of the water quality volume.
5 I know Chuck has done projects in the
6 watershed before so he's aware of
7 that.

8 We circulated a notice of
9 intent for lead agency on 26 October.
10 The Board would be in a position
11 tonight to assume lead agency. We
12 only heard back from County Planning
13 and the City of Newburgh. None of
14 the other agencies responded in the
15 timeframe.

16 There are standard water and
17 sewer notes that need to be on the
18 plan. We have some technical
19 comments regarding the water and
20 sewer.

21 We did note the comments from
22 the jurisdictional emergency services
23 should be received. There's only one
24 single access point to Route 17K, so
25 we'd be interested in their comments

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 regarding that and whether that
3 single access point is adequate for
4 them. Sometimes we've approved other
5 sites with a more boulevard type
6 entrance to provide a little wider
7 access with the single point of
8 access.

9 It's not in my comments, but as
10 I'm looking at your zoning chart
11 today, you are in the Town's airport
12 overlay zone. We'll be looking for a
13 hazard determination from the FAA.
14 It looks like you're pretty close to
15 our 491 foot with your 35 foot
16 building plus the 452 elevation it's
17 at. It's something that you're going
18 to want to do. We've had projects
19 get held up by the FAA in the past.
20 The sooner you can do that, we're
21 suggesting that that's required as
22 well.

23 I think the only action tonight
24 would be to declare yourself lead
25 agency.

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 CHAIRMAN EWASUTYN: Are there
3 any questions or comments? Dave?

4 MR. EVERETT: No. Nothing.

5 MR. ZWEIFLER: I have one. I
6 think your continuous question that
7 we've had, what we've heard from the
8 engineers, is how to really respond
9 to the comments we've received about
10 the use.

11 I think we're really -- where
12 we have a lot of confusion is knowing
13 that this is going to be a
14 multi-tenant building, how we try to
15 address two tenants that are
16 different uses. I don't know if
17 there's good guidance of how you all
18 have done that in the past or how you
19 all think about that, multiple uses
20 in one building.

21 Is there some other way to
22 define principal use regardless of
23 two users?

24 CHAIRMAN EWASUTYN: Well, the
25 principal use would be the use that

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 we would be approving because it
3 would be listed in the code for an IB
4 Zoning District I would assume.

5 Based upon that interpretation,
6 what would you extract from that
7 permitted use in an IB Zone? How
8 would you then label the property?

9 MR. ZWEIFLER: I think we've
10 looked at -- I think the users that
11 we were working with would fall under
12 one of four uses. I think we labeled
13 them as research, lab, manufacturing,
14 warehouse and office. Obviously
15 we've got that written out as the
16 definitions for the site.

17 I think there's a likelihood
18 that an individual user could fall in
19 any one of those uses. I think it
20 would be fair if you say, hey, half
21 of the building is going to go to a
22 research lab use and half of the
23 building is going to go to a
24 warehouse use.

25 I guess that's where my biggest

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 question comes in. Can you have two
3 uses in one building? Is the one
4 that has the highest square footage
5 the principal use and the second use
6 is different? Is there any guidance
7 of how you all would do that?

8 CHAIRMAN EWASUTYN: Jim
9 Campbell, Pat Hines?

10 MR. HINES: I'm not as
11 concerned about the principal use as
12 long as the uses are allowable. It's
13 more of getting a handle on what
14 those uses are.

15 We've had warehousing and
16 manufacturing in the same building.
17 Matrix has one up on the hill that's
18 a warehouse distribution for a
19 pharmaceutical company and a
20 manufacturing for the Amscan
21 Corporation. Both of those uses are
22 occurring in one building with a
23 two-hour fire rated wall between
24 them.

25 The Board needs to know what

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 it's approving. We're not just
3 approving that square or rectangle
4 for whatever use you can find. It's
5 more what are we looking at here,
6 what are the traffic volumes, what
7 are the parking requirements, what
8 are the impacts to the surrounding
9 neighbors. That's what I'm
10 struggling with, on how to give the
11 Board guidance on what they are
12 approving.

13 MR. ZWEIFLER: I guess guidance
14 on that. If we've got a user that's
15 warehouse in one portion of the
16 building and manufacturing in the
17 other, do we list both uses?

18 MR. HINES: Yes.

19 MR. ZWEIFLER: I think that's
20 what we've done. We listed the
21 research lab manufacturing.

22 MR. HINES: And oftentimes --
23 I'll defer to Dominic, but oftentimes
24 the worst case use, if you want to
25 look at the worst case traffic use,

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 water flow use for it, then you'll
3 have done the SEQRA review to the
4 worst case. Anything less than that
5 would fit into this Board's approval.

6 I don't want to go through
7 something with a warehouse and all of
8 a sudden have a big water user or a
9 big traffic generator. We'd be back
10 doing this again.

11 MR. ZWEIFLER: I think that was
12 our intent with everything we put in
13 the EAF, was looking at all four of
14 those uses and kind of evaluate all
15 four of them, looking at the worst
16 case scenario. We tried to evaluate
17 it and present that.

18 I think in all items,
19 especially the pertinent ones like
20 traffic, we provided all four
21 options, showed the exact impact of
22 all of them and said which one is the
23 worst and why we analyzed that one.

24 CHAIRMAN EWASUTYN: Jim
25 Campbell, do you have anything to add

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 under Code Compliance?

3 MR. CAMPBELL: No. Just to get
4 the clarification when it changed
5 from 127,000 square feet. That might
6 be in the decision resolution from
7 the ZBA.

8 CHAIRMAN EWASUTYN: Are there
9 any other questions or comments?

10 (No response.)

11 CHAIRMAN EWASUTYN: So at this
12 point --

13 MR. CORDISCO: Mr. Chairman, I
14 have a couple of items, if I may.

15 CHAIRMAN EWASUTYN: Go ahead.

16 MR. CORDISCO: What's that?

17 CHAIRMAN EWASUTYN: Go ahead.

18 MR. CORDISCO: So in connection
19 with the previous discussion
20 regarding the identification of the
21 uses, it's of paramount importance
22 for the Board to understand the
23 environmental impacts. All the uses
24 should be listed. As Pat suggested,
25 the worst use or the most intense use

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 should be evaluated.

3 Absent that and absent also of
4 identifying particular users, after
5 the approval process takes place it
6 would be possible to have a number of
7 thresholds that would be established
8 as part of the SEQRA determination.
9 Uses that would occur that were
10 within those thresholds could proceed
11 to occupy the building, but uses that
12 would exceed those thresholds would
13 likely require an amendment or
14 reevaluation by the Planning Board.
15 So that is one way to address your
16 question.

17 We talked about the Zoning
18 Board of Appeals' decision. I
19 haven't seen a written copy of the
20 decision yet but procedurally it
21 appears that it might be premature.

22 My referral letter that was
23 sent to the ZBA back on September 7th
24 identified that this is a Type 1
25 action and that we were doing a

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 coordinated review, the Planning
3 Board declared its intent to be lead
4 agency, the Planning Board included
5 the ZBA as one of the involved
6 agencies. Technically with a
7 coordinated review the SEQRA process
8 has to conclude first before agencies
9 can begin making their decision
10 regarding the project.

11 I'd be interested to hear
12 procedurally how this occurred or if
13 there's a rationale for it.

14 The concern that I would have
15 would be that the Town's decision
16 making might be flawed potentially if
17 we were relying on a decision that
18 occurred prior to its normal process.

19 MR. EVERETT: I can address
20 that issue, Dominic.

21 We did have this discussion
22 with the ZBA and the ZBA's attorney
23 and it was agreed that this is a
24 setback variance which is a Type 2
25 action under SEQRA. There's a line

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 of cases that basically say if it's
3 Type 2 you don't need to do any SEQRA
4 compliance with respect to that,
5 regardless of whether or not there's
6 a coordinated review ongoing by a
7 lead agency.

8 So that was the conversation
9 with the ZBA. The ZBA agreed with
10 that and moved forward under the
11 assumption that it was a Type 2
12 action.

13 MR. CORDISCO: I would suggest --
14 if you could provide that in writing,
15 or if there was some discussion of
16 that in the minutes, or if you had
17 references to that case law, it would
18 be good to have that as part of our
19 record moving forward to make sure
20 that in case it becomes questioned in
21 the future, that we have
22 justification for it.

23 MR. ZWEIFLER: We'll get that
24 to you.

25 CHAIRMAN EWASUTYN: Pat, right

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 now the action is to declare
3 ourselves lead agency. Do we want
4 to -- is it too early to circulate to
5 the Orange County Planning Department?

6 MR. CORDISCO: There were
7 amendments to the EAF that you were
8 suggesting.

9 MR. HINES: There's a couple of
10 amendments to the EAF. If they are
11 completed, I think -- you could
12 authorize me sending it if the
13 applicant's representative can do
14 those couple changes to the EAF.
15 We'll submit it to Orange County
16 Planning as well and get their
17 comments early on.

18 CHAIRMAN EWASUTYN: Is the
19 Board in agreement with that?

20 MR. GALLI: Yes.

21 MS. DeLUCA: Yes.

22 MR. MENNERICH: Yes.

23 CHAIRMAN EWASUTYN: Yes.

24 MR. DOMINICK: Yes.

25 MR. WARD: Yes.

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 CHAIRMAN EWASUTYN: Would
3 someone move for a motion to
4 circulate for lead agency?

5 Are we also going to circulate
6 to the --

7 MR. HINES: We circulated for
8 lead agency. The timeframe is up.
9 We're suggesting that you declare --

10 CHAIRMAN EWASUTYN: We declare
11 ourselves lead agency. Are we going
12 to be distributing to the Orange
13 County Planning Department, Pat?

14 MR. HINES: Yes. I'm okay with
15 that conditioned on the changes to
16 the EAF.

17 CHAIRMAN EWASUTYN: Having
18 heard from Pat Hines for declaring
19 ourselves lead agency, and based upon
20 the changes to the EAF, when he
21 receives it he'll coordinate with the
22 applicant to circulate the plans to
23 the Orange County Planning
24 Department.

25 MR. WARD: So moved.

1 NEWBURGH COMMERCE CENTER / SCANNELL

2 MR. GALLI: Second.

3 CHAIRMAN EWASUTYN: I have a
4 motion by John Ward. I have a second
5 by Frank Galli. Can I have a roll
6 call vote starting with Frank Galli.

7 MR. GALLI: Aye.

8 MS. DeLUCA: Aye.

9 MR. MENNERICH: Aye.

10 CHAIRMAN EWASUTYN: Aye.

11 MR. DOMINICK: Aye.

12 MR. WARD: Aye.

13 CHAIRMAN EWASUTYN: Thank you.

14 MR. ZWEIFLER: Thank you,
15 Mr. Chairman. Thank you, Board.

16

17 (Time noted: 8:42 p.m.)

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1 NEWBURGH COMMERCE CENTER / SCANNELL

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

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6

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

9

10

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

11

12

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15

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.

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Michelle Conero

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X
In the Matter of

FAC SELF-STORAGE/U-HAUL MIDDLEHOPE
(2021-33)

5325 Route 9W
Section 20; Block 2; Lot 2
B/SC Zone

- - - - - X

INITIAL APPEARANCE
SITE PLAN

Date: December 16, 2021
Time: 8:42 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: PHILIP APAP
& JAMIE MAPES

- - - - - X

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

1 FAC SELF-STORAGE / U-HAUL - MIDDLEHOPE

2 CHAIRMAN EWASUTYN: The sixth
3 item of business this evening is FAC
4 Self-Storage, project number 21-33.
5 It's an initial appearance for a site
6 plan. It's being represented by --

7 MR. APAP: Philip Apap with
8 Hudson River Construction.

9 Unfortunately Mr. Marshall was
10 unavailable to come tonight due to a
11 scheduling conflict.

12 To my right is Ms. Jamie Mapes.
13 She's with U-Haul and she'll be
14 discussing the current application.

15 So we're here tonight for an
16 initial site plan application for a
17 project at 5325 Route 9W. It's
18 across from the intersection of
19 Route 9W and Highland Terrace which
20 is approximately 800 feet away from
21 the current facility.

22 The parcel consists of 5.2
23 acres of land located in the
24 B, Building, District within the
25 self-storage overlay SC.

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 The project primarily is a
3 cleared area with some woods
4 surrounding the perimeter of the
5 property.

6 Currently the site drains down
7 to the existing swale into an
8 existing catch basin that leads
9 across 9W.

10 Our current proposal would be
11 to construct a single story building
12 approximately 23,000 square feet with
13 an outcropping off this area of
14 roughly 200 square feet.

15 The construction also consists
16 of three loading docks at the rear of
17 the building.

18 The current driveway right now
19 which accesses the existing facility
20 will be used for the new development.

21 Again, this is our initial site
22 plan. We did receive some comments
23 back from the town engineer as well
24 as the traffic engineer that we'll
25 address in our future submission.

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 CHAIRMAN EWASUTYN: Jamie, do
3 you have anything to add?

4 MS. MAPES: Not at this time.
5 Unless you have any questions.

6 CHAIRMAN EWASUTYN: Frank
7 Galli?

8 MR. GALLI: Inside the facility
9 is it one floor or two floors?

10 MR. APAP: It will be a single
11 level.

12 MR. GALLI: How high is it
13 inside?

14 MR. APAP: The peak measures
15 around 35 feet.

16 MR. GALLI: And outside it's 35
17 feet?

18 MR. APAP: Correct.

19 MR. GALLI: Okay. And storage,
20 outside storage? Is there going to
21 be outside storage?

22 MS. MAPES: It will be inside.
23 Indoor.

24 MR. GALLI: Everything is
25 inside?

1 FAC SELF-STORAGE / U-HAUL - MIDDLEHOPE

2 MS. MAPES: Correct.

3 MR. GALLI: It's not going to
4 be like across the street where you
5 have some outside, some inside?

6 MS. MAPES: No, no. Everything
7 is inside the building. It's a
8 self-storage facility.

9 MR. GALLI: That's all I have,
10 John.

11 CHAIRMAN EWASUTYN: Stephanie
12 DeLuca?

13 MS. DeLUCA: Frank already
14 asked my questions.

15 MR. MENNERICH: The units, are
16 they going to be stacked up inside?

17 MS. MAPES: Yes.

18 MR. MENNERICH: Okay.

19 MS. MAPES: Our concept was the
20 self-storage option right now. So we
21 will deliver it directly to the
22 customer's house and then we store it
23 within our self-storage facility.

24 We have across the street
25 currently just the -- with COVID and

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 everything, the impact on the
3 country, everybody prefers -- most
4 people prefer the contactless. We've
5 outgrown the space across the street
6 so we need to increase our capacity
7 for the portable self-storage.

8 CHAIRMAN EWASUTYN: So then
9 these units store belongings that are
10 stored in these pods? Is that how it
11 works?

12 MS. MAPES: Correct. Their
13 belongings are still being stored in
14 a unit, it's just that unit is
15 portable.

16 CHAIRMAN EWASUTYN: And then
17 they notify you in advance if they
18 want to, for example, have it brought
19 down from that particular level so
20 they can re-enter it?

21 MS. MAPES: Correct. They have
22 to give us at least 24-hour notice so
23 that we can prepare it for them,
24 whether it be we take it to their
25 facility or they pick it up and bring

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 it to their house as well.

3 CHAIRMAN EWASUTYN: Do you feel
4 you have enough parking to
5 accommodate the possibility that,
6 let's say for the springtime, and
7 this is a what if, I could be way
8 off, that it's spring and everyone
9 wants to sort of -- I don't know this
10 but I'm guessing maybe they want to
11 transfer winter things back into the
12 pod and get the spring things out.
13 The parking for customers is how many
14 parking stalls?

15 MS. MAPES: They actually won't
16 have access inside the facility. So
17 this is just primarily for us. Every
18 once in awhile there might be a
19 family who would like to look at it
20 onsite, but primarily they won't be
21 there at all.

22 CHAIRMAN EWASUTYN: So is it
23 permanent storage then?

24 MS. MAPES: It is a permanent
25 box that they do load their

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 belongings into, but it primarily
3 isn't loaded at our site. It's so
4 that we can bring it to them. They
5 load it at their house.

6 CHAIRMAN EWASUTYN: Okay. So
7 they load it at their house?

8 MS. MAPES: Correct. So we
9 drop it there, it's contactless, they
10 never see us, and then we pick their
11 belongings back up and we move them
12 into our building so they don't have
13 to.

14 CHAIRMAN EWASUTYN: Thank you.
15 I didn't quite understand that.

16 Dave Dominick?

17 MR. DOMINICK: How many of
18 these units can you stack inside?
19 Three is it? Four?

20 MS. MAPES: This building is
21 proposed for four.

22 MR. DOMINICK: Is there any
23 weight limit on each unit?

24 MS. MAPES: Each box?

25 MR. DOMINICK: Each box.

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 MS. MAPES: 5,000 pounds.

3 CHAIRMAN EWASUTYN: How much?

4 MS. MAPES: 5,000 pounds.

5 MR. DOMINICK: Thank you.

6 CHAIRMAN EWASUTYN: John Ward?

7 MR. WARD: My question is your
8 driveway is going up to nowhere.

9 MR. APAP: That's for trucks
10 turning into the loading dock. We
11 need to have that access.

12 MR. WARD: That's what I wanted
13 to know. Thank you.

14 CHAIRMAN EWASUTYN: Jim
15 Campbell, Code Compliance?

16 MR. CAMPBELL: Yeah. I know
17 one of the issues, I thought I saw
18 something about storage of vehicles
19 and trailers.

20 MS. MAPES: We'll have minimal
21 equipment on this lot because they'll
22 be based primarily across the street.
23 So it would be any potential
24 overflow. If let's say it's snowing
25 and we need to clear the lot, we

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 might move stuff over there. The
3 rental equipment, we would only have
4 minimal pieces of equipment there.
5 Again, we're going to mainly have it
6 across the street.

7 CHAIRMAN EWASUTYN: Ken
8 Wersted, you looked at the overall
9 traffic coming in and out, traffic on
10 9W?

11 MR. WERSTED: Yes. We believe
12 that the traffic coming in and out of
13 the facility will be minimal.

14 We had a few questions that the
15 applicant can answer at their
16 leisure.

17 The orange doors on the front
18 of the facade, I'm assuming they're
19 faux or just decorative, part of the
20 branding, but are functional. People
21 won't be pulling up to those and
22 rolling them up and accessing the
23 site?

24 MR. APAP: All of this here is
25 pretty much faux to make it look like

1 FAC SELF-STORAGE / U-HAUL - MIDDLEHOPE

2 it's not just a big white building.

3 CHAIRMAN EWASUTYN: I'm sorry?

4 I couldn't hear you.

5 MR. APAP: A little appealing.

6 It's not just a big white building.

7 We're also mimicking what we had over

8 at the existing U-Haul with cultured

9 stone. We give a little bit of

10 pizzaz to the look of it.

11 CHAIRMAN EWASUTYN: Did you do

12 the site work on the one across the

13 street?

14 MR. APAP: Yes.

15 CHAIRMAN EWASUTYN: Ken Wersted?

16 MR. WERSTED: Coming back to

17 traffic, the narrative on page 3 in

18 the first paragraph does say access

19 by the customers to the U boxes

20 stored on the site is permitted. If

21 you're correcting that record,

22 obviously we'll --

23 MS. MAPES: They won't have

24 access to inside the building. If

25 they had wanted to load outside, we

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 do offer that option, but it is very
3 limited or it's customers that choose
4 that. They more primarily have us
5 bring the boxes directly to their
6 house or a moving helper or pick it
7 up themselves.

8 MR. WERSTED: So as an example,
9 if they just want to take a couple of
10 boxes of winter clothes and swap them
11 for summer, they can give you notice,
12 you'll take the box from inside,
13 bring it back to essentially the
14 loading dock, they can do that at the
15 facility, not going into the building
16 but essentially be on the dock?

17 MR. APAP: Yes.

18 MS. MAPES: Yes. During our
19 hours and then the box is brought
20 back inside. We don't leave it
21 outside overnight.

22 MR. WERSTED: Okay. With that
23 in mind, that prompted some of our
24 comments relative to the parking. If
25 you have one space for handicap,

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 another space for an employee,
3 perhaps there's two, it really
4 doesn't leave you any room for having
5 additional customer spaces there.
6 Right now it's only showing three
7 spaces.

8 MS. MAPES: I know what you
9 mean. We can look into that.

10 MR. WERSTED: Thank you.

11 The other aspect we had looked
12 at was just the sight distance. The
13 narrative did say that there is
14 adequate sight distance in either
15 direction. We had noted that there
16 is some vegetation on the corner
17 looking to the south that we expect
18 will be cleared once the driveway is
19 built. There is some embankment to
20 the north. If the sight distances
21 are adequate, we would like to see
22 those and just verify that they're
23 meeting current standards.

24 That was the extent of our
25 comments.

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 CHAIRMAN EWASUTYN: Thank you.

3 Pat Hines with McGoey, Hauser &
4 Edsall?

5 MR. HINES: Our first comment
6 is that it's located on a State
7 highway. A DOT permit for access and
8 utilities will be required.

9 A County Planning review will
10 be required.

11 We'll be looking for -- I know
12 there's some preliminary stormwater
13 designs on here, but we'll be looking
14 for the stormwater pollution
15 prevention plan.

16 I have a comment regarding how
17 the water line and fire suppression
18 lines are laid out. I can provide
19 the details to Mr. Marshall's office.

20 We'll be looking for the septic
21 system design, which is shown
22 schematically right now but the soil
23 testing is not there. We have
24 additional comments on the septic
25 that the engineer can address.

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 At this point we would be
3 providing the adjoining's notice and
4 mailing list to the applicant's
5 representative. Everyone within 500
6 feet will be notified of this initial
7 appearance.

8 We need a landscape plan for
9 future submissions.

10 I did have on here the number
11 of U-Haul rental vehicles to be
12 stored on the site should be
13 identified. If there's not going to
14 be U-Haul rental vehicles on the
15 site, we would like a note on the
16 plan stating that so that they don't
17 appear one day and this becomes a
18 rental. It doesn't look like there's
19 any spot conducive for them right
20 now.

21 The EAF identifies potential
22 archaeological resources. When we
23 circulate for lead agency we'll
24 include the Office of Parks and
25 Recreation.

1 F A C S E L F - S T O R A G E / U - H A U L - M I D D L E H O P E

2 MR. GALLI: Aye.

3 MS. DeLUCA: Aye.

4 MR. MENNERICH: Aye.

5 CHAIRMAN EWASUTYN: Aye.

6 MR. DOMINICK: Aye.

7 MR. WARD: Aye.

8 MR. APAP: Thank you.

9

10 (Time noted: 9:00 p.m.)

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

CURALEAF - NEWBURGH
(2021-34)

8 North Plank Road
Section 80; Block 5; Lot 15
B Zone

----- X

INITIAL APPEARANCE
SITE PLAN

Date: December 16, 2021
Time: 9:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: DARREN DOCE &
MARSHALL ROSENBLUM

----- X

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

1 CURALEAF - NEWBURGH

2 CHAIRMAN EWASUTYN: The seventh
3 item of business this evening is
4 Curaleaf - Newburgh. It's an initial
5 appearance for a site plan located on
6 8 North Plank Road in a B Zone. It's
7 being represented by Darren Doce.

8 MR. DOCE: Good evening. The
9 proposal is for a 1,727 square foot
10 addition to an existing 1,690 square
11 foot medical marijuana dispensary.

12 The parcel is located at
13 8 North Plank Road. It's the
14 existing Curaleaf building between
15 the Lexus Diner and Burger King.

16 The site has two existing
17 access points to North Plank Road/
18 State Highway Route 32 that are
19 proposed to remain.

20 The building is connected to
21 water and sewer.

22 We're replacing the parking
23 area with a building, so there are
24 going to be no increase in the
25 impervious surfaces.

1 CURALEAF - NEWBURGH

2 The proposed addition will meet
3 all of the bulk setbacks. However,
4 the existing building is required to
5 have a 60-foot front yard and we
6 have -- the existing nonconformity is
7 53.8 feet.

8 Also, the site doesn't
9 presently conform to lot surface
10 coverage. We're not increasing that.
11 That's going to stay the same.

12 That's the basic proposal. I
13 can answer questions if there are any
14 questions.

15 CHAIRMAN EWASUTYN: Frank
16 Galli?

17 MR. GALLI: Not at this time,
18 John.

19 CHAIRMAN EWASUTYN: Stephanie?

20 MS. DeLUCA: No. None.

21 MR. MENNERICH: None.

22 CHAIRMAN EWASUTYN: The pod
23 that's in the rear yard, that's there
24 permanently or that will be coming
25 out?

1 CURALEAF - NEWBURGH

2 MR. DOCE: Marshall is the
3 architect for the project. Do you
4 know if that's going to remain?
5 There's a pod here.

6 MR. ROSENBLUM: I have no idea.
7 The pod that's on the back of
8 the parking lot, is that temporary?

9 Mr. John Zacharia, the owner.

10 MR. DOCE: There's a storage
11 pod. We're assuming --

12 MR. ZACHARIA: That's
13 temporary.

14 MR. DOCE: Temporary.

15 CHAIRMAN EWASUTYN: It's
16 temporary or permanent? It's what?

17 MR. DOCE: It's temporary. It
18 will be removed once the building
19 is -- if and when the building is
20 constructed.

21 CHAIRMAN EWASUTYN: Are there
22 different times of the day where the
23 additional parking, the nine spaces
24 that are part of the diner, are -- I
25 happened to go there at lunchtime one

1 CURALEAF - NEWBURGH

2 day. I think the majority of those
3 spaces, if not all of those spaces,
4 were occupied, yet in front of the
5 building there were still spaces. So
6 is there a correlation between time
7 of day and how that works?

8 MR. DOCE: Well, primarily I
9 believe those spaces that are in here
10 are now used by people that are
11 frequenting the dispensary. We
12 provide the required parking. Those
13 nine spaces, since the adjoining
14 owner is the same, has allowed them
15 to share that parking.

16 CHAIRMAN EWASUTYN: So with the
17 expansion --

18 MR. DOCE: There's no specific
19 time of day when it's the busiest.
20 I'm told by Curaleaf that a majority
21 of their clients are retired and
22 disabled. They come throughout the
23 day. The bulk of the other people
24 that visit the site are coming after
25 work. After they get home from work,

1 CURALEAF - NEWBURGH

2 they come down to the site.

3 The site is open seven days a
4 week from 9 until 8. The bulk of the
5 people come after work.

6 CHAIRMAN EWASUTYN: I noticed
7 being on the site you had directional
8 arrows that went around the building.
9 It looked like there may have been
10 some resurfacing of the asphalt and
11 everything was noticeable.

12 Do you think there's any
13 benefit of speaking with the owner of
14 the property where these nine stalls
15 are now and have those delineated or
16 updated or striped so there's sort of
17 a tie-in to all of this?

18 MR. DOCE: Yes. There's
19 proposed re-striping of those spaces
20 in that area.

21 CHAIRMAN EWASUTYN: You are
22 going to re-stripe it?

23 MR. DOCE: Yes.

24 CHAIRMAN EWASUTYN: That's
25 good. That's my only question.

1 CURALEAF - NEWBURGH

2 Dave?

3 MR. DOMINICK: Nothing.

4 CHAIRMAN EWASUTYN: John Ward?

5 MR. WARD: My question is you
6 say it's temporary for the pod to be
7 there. Now you don't have it on
8 there, on the plan. Once you build
9 the place and everything else, code
10 enforcement can basically have you
11 remove it. If you have any
12 intentions on keeping it there, I'm
13 just mentioning it to you, if it's
14 not temporary.

15 MR. DOCE: I will clarify that.
16 I believe it's going to be removed.
17 It's only there temporarily now
18 because the space within the building
19 is lacking right now.

20 MR. WARD: Okay. When the time
21 comes I want to have a note on the
22 plan. That's why I'm saying it.

23 Thank you.

24 CHAIRMAN EWASUTYN: Frank?

25 MR. GALLI: How do you get your

1 CURALEAF - NEWBURGH

2 deliveries?

3 MR. DOCE: Deliveries are by
4 van or secure truck off hours because
5 they're not allowed to bring product
6 into the building during normal
7 business hours through the sales
8 floor.

9 MR. GALLI: That's delivered
10 from the parking lot outside and they
11 walk it inside or is there an
12 inside --

13 MR. DOCE: No. They park
14 outside and just bring it through the
15 door inside. It's just a typical van
16 or an armored type of vehicle.

17 MR. GALLI: It's not like an
18 armored car type of thing?

19 MR. DOCE: It is sometimes.

20 MR. GALLI: It is an armored
21 car?

22 MR. DOCE: There are guards
23 with all the deliveries, yes.

24 MR. GALLI: So there's no chain
25 link fencing that they pull in and

1 CURALEAF - NEWBURGH

2 close the gate?

3 MR. DOCE: No. If they do have
4 that, they're allowed to deliver
5 during the day. Since this site
6 doesn't, they deliver off hours.

7 CHAIRMAN EWASUTYN: Jim
8 Campbell, Code Compliance?

9 MR. CAMPBELL: Basically I
10 thought there was like a parking
11 area, a fenced-in parking area.

12 MR. DOCE: That's going to be
13 removed once the addition is put on.

14 MR. CAMPBELL: Also, the
15 driving lane around the back of the
16 building, it just seems awfully
17 tight, especially if cars are not
18 within the parking spaces.

19 MR. DOCE: We laid a turning
20 radius around that. I believe, yeah,
21 we can get a vehicle around there.

22 MR. CAMPBELL: Okay. And just
23 an FYI. The cargo container is a
24 violation as it sits now.

25 MR. DOCE: And it will be

1 CURALEAF - NEWBURGH

2 removed.

3 MR. CAMPBELL: Thank you.

4 CHAIRMAN EWASUTYN: Ken

5 Wersted, Creighton, Manning?

6 MR. WERSTED: As Jim had
7 mentioned, the five parking spaces
8 next to the dumpster area for the
9 diner which are to the right side of
10 the building addition, if any of
11 those cars park too far over the
12 line, they will be encroaching on the
13 drive aisle to go around that side of
14 the building. We may have to look at
15 that in terms of putting down some
16 wheel stops or something to prevent
17 that from happening.

18 Our overall comment is that the
19 site essentially has four points of
20 access. You've got a shared access
21 over to the diner which also has its
22 own two points of access, one out to
23 32, one out to 9W, and then this site
24 itself has two access points. We had
25 observed some midday traffic volumes.

1 CURALEAF - NEWBURGH

2 It didn't appear that you needed that
3 many driveways. Given that the site
4 building is doubling in size, all
5 your drainage is coming down to the
6 State facility, I wouldn't be
7 surprised if DOT comes back and says
8 you need to consolidate some of these
9 driveways.

10 The awkward angles of them
11 coming out to 32 can be problematic.
12 We observed some people going out one
13 driveway, making the hard turn in the
14 opposite direction and having to
15 encroach into other lanes on 32. So
16 we would look for you to perhaps take
17 one of those driveways and
18 consolidate it, provide one in and
19 out location.

20 Overall the traffic numbers
21 probably aren't even as significant
22 as it once was when it was a gas
23 station years and years ago.

24 I think we've addressed --
25 you've addressed the other comments

1 CURALEAF - NEWBURGH

2 that we've had throughout our memo.

3 CHAIRMAN EWASUTYN: Pat Hines
4 with McGoey, Hauser & Edsall?

5 MR. HINES: Yes. As Mr. Doce
6 identified, there are two
7 pre-existing nonconforming bulk
8 requirements on the site, front yard
9 60 feet is required where 53.8 is
10 existing and lot surface coverage is
11 85 percent is permitted where 95.4
12 percent is calculated. Those two
13 items will need referral to the ZBA
14 as it will lose its grandfathering
15 based on the change in the site plan.

16 A City of Newburgh flow
17 acceptance letter for the increased
18 flow based on the square footage will
19 be required.

20 DOT approval for the access
21 road, as Ken just mentioned.

22 I didn't realize that the lots
23 are in adjoining ownership. The
24 shared parking should have some kind
25 of agreement or note that it's

1 CURALEAF - NEWBURGH

2 permitted. Should the parcels change
3 hands, they should still be able to
4 use those nine parking spaces or not
5 based on the availability of them. I
6 think that should be clarified.

7 An Orange County Planning
8 submission will be required.

9 I will work with Mr. Doce on
10 the adjoiners' notices.

11 I'll defer to Dominic, but this
12 looks like commercial less than 4,000
13 square feet and it would be a Type 2
14 action.

15 CHAIRMAN EWASUTYN: Is it?

16 MR. CORDISCO: It would be a
17 Type 2 action.

18 MR. HINES: No one asked the
19 use of the building. Is it a change
20 of use or is it going to continue as
21 the same medical marijuana facility?

22 MR. DOCE: It will continue the
23 same, medical marijuana.

24 MR. HINES: I didn't know if it
25 was going to operate as a

1 CURALEAF - NEWBURGH

2 recreational marijuana facility/ --

3 MR. DOCE: Well, once the State
4 approves the sale of recreational
5 marijuana, and if the Town of
6 Newburgh also approves the sale of --

7 MR. HINES: That's the point of
8 my question.

9 MR. DOCE: Right. Each town
10 would have to approve the use. Yeah.
11 They would sell recreational
12 marijuana if the Town of Newburgh
13 approves the sale of recreational
14 marijuana within the Town.

15 CHAIRMAN EWASUTYN: Marshall,
16 do you have anything to add at this
17 time?

18 MR. ROSENBLUM: Nothing
19 significant. The existing fenced in
20 receiving area that was added in, it
21 was no longer required. That's the
22 only real comment that --

23 CHAIRMAN EWASUTYN: And you're
24 working on the future ARB plans for
25 the Board?

1 CURALEAF - NEWBURGH

2 MR. ROSENBLUM: I could
3 actually give you a very brief
4 introduction right now.

5 CHAIRMAN EWASUTYN: If you
6 don't mind since you're here. Just
7 for the record, would you identify
8 yourself?

9 MR. ROSENBLUM: My name is
10 Marshall Rosenblum. I'm the
11 architect for the project.

12 Just as an FYI for the Board,
13 this is a photograph of the existing
14 front of the building.

15 CHAIRMAN EWASUTYN: Why don't
16 you attach it to the easel with one
17 of the clips, that way it's easier
18 for you and it's easier for us.

19 MR. ROSENBLUM: Thank you so
20 much.

21 This is the existing facility
22 over here. The vault or the secure
23 area for storage is this little room
24 right on the end.

25 Right now there are two means

1 CURALEAF - NEWBURGH

2 of entrance which is through this
3 area over here and an alternate over
4 here. This is primarily used for
5 I'll call it secondary, but it's a
6 functional exit and entrance.

7 What we're doing is we're
8 adding approximately the same square
9 footage. The traffic flow is the
10 same. Receiving is from the same
11 direction. However, instead of the
12 small closet vault, we're adding a
13 substantial room that's approximately
14 12 x 22 which would be for the
15 general storage area. They would
16 have far less deliveries and be able
17 to accommodate more products stored.

18 The functionality. Right now
19 they have one service counter here
20 with I believe six stations. We
21 would probably have ten people
22 working in this more open sales area
23 with a view toward a greater
24 separation of people so they wouldn't
25 be so concentrated in the one work

1 CURALEAF - NEWBURGH

2 area.

3 There's also an additional
4 toilet that's being added. One is a
5 secured toilet, in other words it's
6 sealed for staff so they can't access
7 the ceiling, I'll put it that way.
8 The other is a general unisex toilet.

9 The entrance location changes,
10 as you were pointing out. Right now
11 the primary entrance would be here.
12 Now it's through here as a secure
13 entrance. They can exit through here
14 where they have a secondary exit
15 here.

16 Fire exits, there are three,
17 here, here and at the front.

18 CHAIRMAN EWASUTYN: Do you have
19 renderings of what the new addition
20 is going to look like?

21 MR. ROSENBLUM: Sure. Very,
22 very basic at this point.

23 CHAIRMAN EWASUTYN: No color?

24 MR. ROSENBLUM: The look of the
25 building would really stay --

1 CURALEAF - NEWBURGH

2 essentially it stays the same.
3 Here's your building. The opening
4 stays the same. The windows stay the
5 same.

6 We're adding this. This sign
7 would come off the roof. What we
8 would have is a green applied sign.
9 I believe we're allowed about 79
10 square feet. This would be 75.
11 That's what's drawn.

12 What it is is the building is
13 still the same, EIFS stucco with
14 clean white and I'll call it tan
15 colors. It would just be a
16 continuation. Nothing substantial
17 would change in the appearance.

18 The sign itself is -- the green
19 part is lumen that's applied to the
20 face of the building. The letters
21 would be raised lumen letters lit
22 from inside so it would glow against
23 the background. I'll call it a more
24 sophisticated signage approach than
25 the letters on the top of the

1 CURALEAF - NEWBURGH

2 building which would be removed.

3 The parapet would continue
4 around three and-a-half sides. We
5 have some screening for the
6 mechanicals at the back. These are
7 small units. You really don't see
8 them at all. My concern was
9 accumulated snow. So that's a
10 construction drawing as you would see
11 it.

12 The synthetic stone continues
13 around three sides so the building
14 and has a finished appearance all the
15 way around.

16 That's pretty much it.

17 CHAIRMAN EWASUTYN: Okay. Any
18 questions or comments from the Board
19 Members?

20 MR. GALLI: You said there was
21 going to be like nine more stations?

22 MR. ROSENBLUM: Yes, sir.

23 MR. GALLI: How many employees
24 are there going to be total on the
25 site when the new building is built

1 CURALEAF - NEWBURGH

2 during the day?

3 MR. ROSENBLUM: I think we
4 got -- what is that number? Is it
5 ten to twelve?

6 MR. DOCE: He told me five to
7 ten.

8 MR. ROSENBLUM: So probably
9 that.

10 MR. GALLI: Not all the
11 stations are going to be open?

12 MR. ROSENBLUM: This was the
13 answer that they told us.

14 MR. GALLI: I'm just curious
15 because of the parking for all the
16 employees and then the customers.

17 That's all I had, just to
18 clarify.

19 CHAIRMAN EWASUTYN: Stephanie?

20 MS. DeLUCA: Nothing further.

21 CHAIRMAN EWASUTYN: Ken?

22 MR. MENNERICH: Nothing.

23 CHAIRMAN EWASUTYN: Thank you,
24 Marshall.

25 So the action before us this

1 CURALEAF - NEWBURGH

2 evening?

3 MR. CORDISCO: It would be to
4 declare your intent for lead
5 agency -- I'm sorry. It's a Type 2
6 action. My apologies.

7 It is to refer the required
8 variances to the Zoning Board of
9 Appeals.

10 CHAIRMAN EWASUTYN: And that's
11 a front yard variance and a lot
12 coverage variance?

13 MR. HINES: Yes.

14 MR. CORDISCO: Yes, sir.

15 CHAIRMAN EWASUTYN: You'll work
16 on the adjoiners' notice to the
17 property owners?

18 MR. HINES: Yes.

19 CHAIRMAN EWASUTYN: And are we
20 or are we not circulating to the
21 Orange County Planning Department?

22 MR. HINES: They typically wait
23 for it to come back from the ZBA.
24 They will also have to circulate.

25 CHAIRMAN EWASUTYN: All right.

1 CURALEAF - NEWBURGH

2 So Pat, do you want to give us the
3 action before us this evening?

4 MR. HINES: For the variances?

5 CHAIRMAN EWASUTYN: Yes.

6 MR. HINES: It's a front yard
7 setback variance, 60 feet required
8 where 53.8 exists, and a lot surface
9 coverage, 85 percent permitted and
10 95.4 is calculated.

11 CHAIRMAN EWASUTYN: All right.
12 Having heard from Pat Hines, would
13 someone move for a motion for the
14 Planning Board Attorney, Dominic
15 Cordisco, to prepare that referral
16 letter to the ZBA?

17 MR. GALLI: I'll make the
18 motion.

19 MR. MENNERICH: Second.

20 CHAIRMAN EWASUTYN: I have a
21 motion by Frank Galli. I have a
22 second by Ken Mennerich. May I
23 please have a roll call vote.

24 MR. GALLI: Aye.

25 MS. DeLUCA: Aye.

1 CURALEAF - NEWBURGH

2 MR. MENNERICH: Aye.

3 CHAIRMAN EWASUTYN: Aye.

4 MR. DOMINICK: Aye.

5 MR. WARD: Aye.

6 CHAIRMAN EWASUTYN: Darren,

7 you'll work with Pat on the

8 adjoiners' notice?

9 MR. DOCE: Yes.

10 MR. CORDISCO: Mr. Chairman,

11 can we take a short break?

12 CHAIRMAN EWASUTYN: If that's

13 what you want to do. How long of a

14 break do you want to take?

15 MR. CORDISCO: Three minutes.

16 CHAIRMAN EWASUTYN: We'll break

17 for five minutes.

18

19 (Time noted: 9:23 p.m.)

20

21

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1 CURALEAF - NEWBURGH

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

4

5

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

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

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

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 3rd day of January 2022.

18

19

20

21

Michelle Conero

22

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

HADID SITE PLAN
(2021-10)

34 Susan Drive
Section 46; Block 5; Lot 21
R-1 Zone

----- X

CLEARING & GRADING

Date: December 16, 2021
Time: 9:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO
& ROSS WINGLOVITZ

----- X

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

1 H A D I D S I T E P L A N

2 CHAIRMAN EWASUTYN: The eighth
3 item on the agenda is the Hadid Site
4 Plan. It's a clearing and grading
5 application. It's being represented
6 by John Cappello.

7 MR. CAPPELLO: Good evening
8 everyone. My name is John Cappello.
9 I'm here with Drs. Cherifa and Ahmad
10 Hadid, who will be doing the bulk of
11 the presentation this evening, and
12 Ross Winglovitz, the project
13 engineer.

14 At the last meeting we were
15 before the Board and, frankly, taken
16 a little bit by surprise. I
17 apologize to the Board that we had
18 presented the geotechnical study, we
19 were advised that that was okay. We
20 weren't aware of the other issues.
21 There were a lot of facts that I
22 found out now, after hearing the
23 Board's concerns, that I frankly
24 wasn't aware of, and that I believe
25 is information we would like you to

1 H A D I D S I T E P L A N

2 have. We believe that when you have
3 it, we would ask -- I would have
4 Cherifa present that information to
5 you, then I would provide a minute or
6 so, just a brief explanation of what
7 we believe the law is. Then what I
8 would request is that the Board
9 rescind the positive declaration that
10 you adopted last night, not
11 necessarily adopt a negative
12 declaration under SEQRA tonight,
13 although we would love to have you do
14 that, but if after hearing tonight's
15 presentation you have any more
16 information, if you would like to
17 visit the site, discuss it, we'd be
18 happy to have the neighbors there as
19 well since there was one neighbor,
20 and we would hope to be able to
21 proceed that way.

22 Having said that, I believe
23 there is some information regarding
24 your concerns which -- we believe the
25 two major concerns were safety of the

1 HADID SITE PLAN

2 compaction of the soils and the
3 impact to the viewshed.

4 With that I'm going to
5 introduce Mrs. Hadid to briefly
6 present some photographic evidence to
7 you and add some of the history of
8 the development of the site.

9 CHAIRMAN EWASUTYN: Thank you.

10 MS. HADID: Good evening. My
11 name is Cherifa Hadid and I live with
12 my husband and my three children at
13 34 Susan Drive. We have been living
14 on Susan Drive for over twenty years.

15 I would like to make a short
16 comment -- a short statement
17 regarding our permit application for
18 a swimming pool in our backyard that
19 has been discussed in numerous
20 Planning Board meetings. Here I will
21 present some facts. We will not take
22 -- all of these facts were presented
23 to you beforehand.

24 I am not a lawyer and I'm not
25 an engineer, but there's really no

1 H A D I D S I T E P L A N

2 other way of doing this pool without
3 the fill behind it. If you look at
4 the topography of the land on Susan
5 Drive, all of the neighbors' pools
6 had fill behind them to support the
7 pool.

8 I would like to make comments
9 quickly on the issues my neighbor at
10 32 Susan brought up, and they were
11 addressed in detail in my record to
12 the Board dated December 1, 2021.

13 With respect to the safety of
14 our neighbor's child playing in the
15 backyard, I have a family too and I
16 love small children. We would never
17 build anything on our property that
18 would be unsafe to our neighbor's
19 child or anybody else. Both my
20 husband and I are doctors and we are
21 very concerned about the safety of
22 ourselves and our neighbors.

23 The engineering evaluations of
24 the fill have found no safety issues,
25 and the completed slopes will have

1 H A D I D S I T E P L A N

2 grass with no loose rocks.

3 As noted in our letter to the
4 Board, and also I will show it to
5 you, the lack of fencing along the
6 railroad right-of-way by the river
7 and the unprotected retaining wall on
8 the neighbor's own property represent
9 a greater hazard to their child than
10 the slope of the fill on our
11 property.

12 In regard to the view in back
13 to the basement window, we definitely
14 do not want to devalue our neighbor's
15 property. We believe that the
16 retaining wall that they constructed
17 on the south side of their home and
18 the stone pillars that support their
19 deck block more of their Hudson River
20 view than our pool construction.

21 The construction of their deck,
22 of this deck over the basement
23 windows, required a setback variance
24 that was brought before this Board
25 and approved almost ten years ago on

1 H A D I D S I T E P L A N

2 February 2, 2012. At that meeting in
3 2012 we questioned whether the
4 construction of the proposed deck at
5 10.12 feet from our property line
6 instead of the required 30 feet would
7 impact our view of the Hudson River.
8 We were assured by the Board and by
9 the neighbor's engineer that it would
10 not, so we did not object to the
11 variance request. The variance was
12 approved with a statement that the
13 construction of this deck at the
14 revised offset would not result in
15 any serious undesirable detriment to
16 surrounding property owners. In
17 fact, as you can see from the photo
18 included in our letter to the Board,
19 our neighbor's deck does block a
20 portion of the Hudson River view from
21 our basement window. However, we
22 agreed with the resolution of the
23 Board from 2012 that this is not a
24 serious impact to our view because
25 it's from our basement window and not

1 H A D I D S I T E P L A N

2 direct of our house.

3 We believe that the issue that
4 is being presented by our neighbor in
5 regard to the view from their
6 basement window is very simple. The
7 view from their deck and the rest of
8 their home is no way impacted by the
9 construction of our pool.

10 The statement made at the
11 November 4th meeting also noted that
12 none of the other pools on Susan
13 Drive were constructed in the same
14 manner as ours. This is inaccurate
15 because, as documented in our letter,
16 the pools at 36, 38, 42 Susan Drive
17 were all constructed in the same
18 manner as ours.

19 In summary, we are not happy at
20 all with the way our backyard looks
21 right now with all the tall weeds,
22 the unexposed soil and the -- I'm
23 sorry -- soil and rock. It would be
24 wonderful if we would be able to
25 finish our pool construction and make

1 H A D I D S I T E P L A N

2 it look as beautiful as the front of
3 our home.

4 Please provide us with a
5 building permit and allow us to
6 complete the pool construction this
7 spring. We can assure you that it
8 will be beautiful as well as safe for
9 us and for our neighbor when it's
10 completed.

11 We are willing to talk to the
12 neighbor at 32 Susan Drive. We would
13 like to work this out with them.

14 We are willing to answer all of
15 your questions. We believe we have
16 taken exhaustive measures to make
17 this as unobtrusive as possible.

18 Thank you very much.

19 I would like to invite all the
20 Board Members over to our house
21 anytime you want. Even if I'm not
22 home, you are all welcome. I could
23 take permission from the neighbors,
24 the 36, the 38 and 42, to walk to the
25 backyard, all of them. They could

1 HADID SITE PLAN

2 give you permission.

3 All of our neighbors who
4 supported us, even the 32 Susan, we
5 are willing to work with them and
6 talk to them to make this work.

7 Thank you so much.

8 If you would like me to go to
9 the pictures.

10 CHAIRMAN EWASUTYN: Sure. Why
11 don't you complete your presentation.

12 MS. HADID: So this is the
13 location of the basement window, the
14 glass window, of the 32 Susan Drive.
15 So this is 32 Susan Drive. So this
16 is all taken from my house. This is
17 my property. I look at the weeds and
18 look at how ugly it looks.

19 The view from the deck and from
20 the top, they have three levels, so
21 basement and then deck and then the
22 third level. It's not obstructed at
23 all. This is the window. This is
24 the deck and the upper level.

25 MR. CAPPELLO: I would just add

1 HADID SITE PLAN

2 that this portion here we believe is,
3 what -- approximately ten years ago
4 this property owner received a
5 variance because this house is built
6 10.4 feet from the side line. So
7 it's 20 feet closer to the Hadid
8 house than would be permitted by
9 zoning. The homeowners at that
10 point, I don't know if it is the same
11 homeowners or not --

12 MS. HADID: We were the same.

13 MR. CAPPELLO: -- requested and
14 got an area variance to bump that out
15 and extend the nonconformity.

16 That's what Mrs. Hadid was
17 mentioning was their issue and this
18 potentially -- this deck was built,
19 and you can see the pylons here.
20 When someone is looking out the
21 window, it is obstructed from here,
22 from here, and it also would obstruct
23 the view from the basement window of
24 the Hadid property. So it is very
25 similar.

1 HADID SITE PLAN

2 I would also point out these
3 trees that are planted on the
4 property line, they don't require any
5 fill or any permit. You know, if
6 they were allowed to grow and not be
7 kept, which the Hadids are willing to
8 make sure they are trimmed, would
9 block a view without requiring any
10 permits.

11 When you talk about whether the
12 view, and I'll go through the legal
13 analysis, this view could be blocked
14 whether this pool was built or not,
15 which is why we believe your code
16 requires you to look at the
17 compaction and the actual impact of
18 the fill, not the ancillary issues of
19 the view.

20 MS. HADID: So this is actually
21 what -- so this shows like the
22 basement of my neighbor. This is
23 their retaining wall on their south
24 side. It's really very unprotected.
25 It's like just a big cliff. I think

1 HADID SITE PLAN

2 it's more hazard for their two year
3 old boy, which I love because I know
4 that she had two years ago, it's more
5 a hazard for them more than our
6 property which we would have a fence.
7 I mean if you want, we will have a
8 fence around the pool. We can have a
9 fence even lower, anywhere that the
10 Board wants.

11 MR. CAPPELLO: I would just
12 point out, too, from the window in
13 the basement, this retaining wall
14 that the property owner built totally
15 blocks the view of the river from --

16 MS. HADID: So it's this one
17 and it's -- actually, you can still
18 see -- you can still see the bridge
19 even with this. So it's really not
20 blocking, but it's blocking more than
21 our fill.

22 Here also, the stone pylons,
23 it's blocking their own view.

24 MR. WINGLOVITZ: That's what
25 you're demonstrating in that center

1 HADID SITE PLAN

2 picture.

3 MS. HADID: In the center
4 picture, this is Google I think, it
5 shows that they're blocking their
6 view to this house more than it's
7 blocking to the north. We can still
8 go back actually here and still they
9 have a block to this way by their own
10 retaining wall.

11 This picture is taken from my
12 basement window to the right side.
13 This shows -- this is exactly from my
14 basement.

15 Again, you're welcome to go and
16 see it in person. This is how --
17 when I look this way, this is how
18 it's blocking my view to this side
19 from my basement window. I think
20 it's not a big deal because I could
21 still see it from my porch.

22 We have a ranch. We don't have
23 three floors. We have only two
24 floors. So my whole first floor is
25 blocked by this column and by this --

1 H A D I D S I T E P L A N

2 the one they got the variance in 2012
3 when we just questioned when we were
4 here.

5 This is the neighbors. This is
6 my 36 Susan Drive neighbor. Our pool
7 is identical. You go out, this is
8 the pool and this is the slope. This
9 is -- here, they had the pool here
10 but they had the slope up, then they
11 had another slope here, the 38. The
12 42, the same thing. They had the
13 slope and then they had the pool
14 down. So we have -- so we're going
15 to be identical like 36.

16 So because of that -- because
17 of the slope, because of how the
18 topography, each house is higher, one
19 floor than the house before, so this
20 is how it is. Here when we stand on
21 our first floor, we see their
22 basement. This is how the land is
23 over there on Susan Drive.

24 So all of them, these are 221,
25 221, this is 42 and this is 38. 38

1 HADID SITE PLAN

2 again, they had to do it down because
3 of the septic issue. They have that
4 slope even steeper than what we're
5 going to have. So basically what
6 we're going to have is identical to
7 36, if you allow.

8 This is -- actually it's a
9 panoramic view from the basement. We
10 took it -- actually it's a panoramic
11 photo taken. The actual view would
12 have more visibility to the north
13 than to the south due to the loss of
14 the viewshed on 32's retaining wall.

15 So this is a panoramic view
16 from the basement of -- it was taken
17 from the basement. We took this
18 actually from the street up. It
19 could be taken from the basement of
20 my neighbor at 32 Susan Drive.

21 MR. CAPPELLO: The other thing
22 I would want to add, Ms. Hadid, it is
23 true that you hired a contractor to
24 do this?

25 MS. HADID: Yeah.

1 H A D I D S I T E P L A N

2 MR. CAPPELLO: The contractor
3 did apply for a building permit. So
4 in the Hadids' mind everything was
5 going according to order.

6 When fill was brought, they
7 weren't keeping track to see whether
8 the fill went over 1,500 and required
9 a Planning Board review. I don't
10 think any of us who hired a
11 contractor, you know, would know.
12 The Hadids are eminent physicians,
13 they're not contractors that would
14 know. Like I said, I don't know if
15 anyone would know that.

16 In looking at the retaining
17 walls and the pools that are along
18 this road, I think many of them
19 probably were built in a similar
20 fashion. I don't know how many of
21 them came before the Planning Board
22 and were those levels, but I think
23 this is similar to what has occurred.

24 I did also provide you with
25 what I believe is a summary of the

1 H A D I D S I T E P L A N

2 law on SEQRA. This is an application
3 for a building permit for a swimming
4 pool. Under SEQRA, single-family
5 homes and appurtenances, including
6 swimming pools, et cetera, are exempt
7 from Type 2 actions under SEQRA, as
8 your last application was.

9 There is a clearing and grading
10 permit requirement that is separate
11 and apart from the zoning, and that
12 just requires the building inspector
13 to refer it to you for your review
14 and approval as to the specific items
15 that are set forth in the clearing
16 and grading law. There's no mention
17 of a State Environmental Quality
18 Review Act review for anything of
19 this size and nature.

20 The areas that are depicted
21 there relate to stormwater concerns
22 regarding the fill, erosion regarding
23 the fill, potential collapse for
24 appropriate compaction regarding the
25 fill, all of which was addressed in

1 HADID SITE PLAN

2 the geotechnical report.

3 So we believe your review is
4 limited, as case law says, to those
5 identified items in that clearing and
6 grading permit.

7 Having said that, we certainly
8 will provide and work with you to do
9 what we can to preserve the view and
10 in keeping with the rest of the
11 neighborhood, which I believe we
12 demonstrated herein.

13 So with that, we certainly have
14 Ross here. I'm sorry, I didn't --

15 MR. SOMAR HADID: Somar, the
16 Hadids' son.

17 MR. CAPPELLO: Hopefully you'll
18 be swimming in the pool some day.

19 As I said in the beginning,
20 we're here to answer any additional
21 questions the Board has. We hope we
22 can bring this on the right track.

23 We believe the best way for the
24 Board to consider that is if you have
25 any questions or any information or

1 H A D I D S I T E P L A N

2 would like to visit the site to make
3 your determination, you do that
4 outside of the positive declaration
5 proceeding under SEQRA.

6 Regardless of whether you agree
7 with me that it's exempt from SEQRA,
8 I still believe that doing a positive
9 dec and requiring an environmental
10 impact statement is just going to be
11 a procedural step that's not going to
12 provide you any more information to
13 make the appropriate decision that
14 you need to make.

15 If you require more information
16 -- that's why I wish I was thinking a
17 little quicker on my feet. After you
18 weren't ready to adopt a negative dec
19 at the last meeting and you went
20 right to the positive dec, I wish I
21 would have jumped up and said what
22 information do you need to consider a
23 negative dec in the future, we will
24 provide that, once again not setting
25 aside my argument that SEQRA is not

1 H A D I D S I T E P L A N

2 required at all.

3 So I believe you can take that
4 information, and even if you
5 weren't -- and we don't believe it
6 would be warranted to deny this
7 permit. You could do that based upon
8 the information provided in a
9 negative declaration under SEQRA.

10 A positive declaration is just
11 going to get you reams of paper that
12 have nothing to do with the issues
13 that are here. Do you need a traffic
14 study? I mean think of the items you
15 would look at in an environmental
16 impact statement and what of those
17 items would have any relevance to
18 this application.

19 The issues here are defined,
20 they're clear, and we're willing to
21 provide you the information to make
22 your decision. A draft environmental
23 impact statement just seems to be a
24 waste of everybody's time, a waste of
25 money that will not lead you and give

1 HADID SITE PLAN

2 you any more information to make your
3 decision than we can give you through
4 the process we're proceeding through
5 now.

6 MR. SOMAR HADID: I would like
7 to add something.

8 CHAIRMAN EWASUTYN: Just for
9 the record, give your first and last
10 name.

11 MR. SOMAR HADID: My name is
12 Somar Hadid. I'm also a resident of
13 34 Susan Drive. I'm Dr. Hadid and
14 Cherifa Hadid's son.

15 We're just a house. We're just
16 a family. We're not Exxon. We're
17 not Indian Point. We're not a big
18 factory.

19 Requiring an environmental
20 impact statement on a small family
21 house is just, you know, a waste of
22 time. It's just negligence. I
23 believe it's just another legal
24 hurdle, another barrier to us
25 building a pool.

1 H A D I D S I T E P L A N

2 The DEA inspector actually came
3 to our house, and he came
4 unexpectedly, and he picked up the
5 soil and he felt the soil and in five
6 minutes he could tell that there's no
7 impact, like the soil is not
8 contaminated, there's nothing wrong
9 with the soil. I said okay, do you
10 want us to -- we asked him do you
11 want us to pay for a soil -- to
12 examine the soil, to have a soil
13 examination to test the various
14 chemicals or various -- he said no, I
15 was able to feel it, I was able to
16 smell it and there's nothing wrong.
17 The soil is fresh soil.

18 He was concerned initially that
19 maybe this is contaminated soil,
20 maybe this was from an oil rig. He
21 came and with his feet he stepped on
22 the soil, his hands were dirty, and
23 in five minutes that was it.

24 So requiring an environmental
25 impact statement doesn't make any

1 H A D I D S I T E P L A N

2 sense at this point.

3 CHAIRMAN EWASUTYN: Comments
4 from Board Members. Frank Galli?

5 MR. GALLI: I'm not an
6 engineer. The view part of it,
7 looking at -- I was up to the
8 property a couple times but I never
9 went in the backyard.

10 The pictures that I see here,
11 unfortunately my personal opinion is
12 I think it's a neighbor dispute. I
13 realize the fill was put in, there's
14 too much fill in there.

15 I don't know -- I mean we have
16 our attorney that advises us legally
17 what to do. He would know better
18 than I would.

19 I mean we started out on the
20 wrong foot with the pool, with the
21 fill, and I think it just went all
22 downhill from there.

23 Personally a couple Board
24 Members said why can't we just remove
25 some fill, get back to the point

1 H A D I D S I T E P L A N

2 where everybody is happy in the
3 neighborhood. Get the right amount
4 of fill in there, get it going the
5 right way and be done with it.

6 Like I said, I'm not an
7 attorney, I'm not an engineer. I
8 don't know where to go, John,
9 honestly.

10 CHAIRMAN EWASUTYN: Can you
11 remove any more of the fill?

12 MR. WINGLOVITZ: We are going
13 to remove a significant amount of
14 fill as part of the regrading to
15 improve -- which will aid in the
16 stabilization, but it will also
17 improve the viewshed.

18 MR. HINES: I guess the
19 question is is there an ability to do
20 some more mitigation?

21 MR. WINGLOVITZ: Take out more
22 of the fill? There could be more
23 fill removed, sure. It wouldn't
24 compromise the pool.

25 I mean right now we're limiting

1 HADID SITE PLAN

2 the patio area to 20 feet around the
3 pool, which is not overly generous.
4 We could reduce that.

5 MR. HINES: I don't think the
6 issue is the north end. The south
7 end, the slope along the property
8 line seems to be an issue, and the
9 slope --

10 CHAIRMAN EWASUTYN: Mr. Hadid
11 wants to say something.

12 MR. HADID: Thank you. I'm
13 Ahmad Hadid. I'm the owner of 34
14 Susan Drive.

15 I appreciate you working with
16 us. Yes, the south corner, as was
17 mentioned, is really the highest
18 elevation. That will take more of
19 the fill as volume. It will really
20 -- for us it would not hurt us much
21 because that's after the pool from
22 the south end, and we didn't --
23 obviously we didn't say everything
24 because it's not -- we didn't say
25 everything that really the Planning

1 H A D I D S I T E P L A N

2 Board did.

3 It was not professionally
4 planned and it was not even that
5 fill.

6 It was not really meant to be
7 in that corner because that corner,
8 the benefit of it is really very
9 little for a lot of fill.

10 So yes, we are willing to trim
11 back. Actually that's really where
12 it's going to help our neighbor's
13 view. For us we will use less. A
14 lot of fill from that corner with the
15 highest elevation, that's really
16 where the problem is in that corner,
17 where it took a lot of fill, which we
18 really didn't -- I didn't really know
19 how much fill, and it was not even in
20 the planning to put that fill.

21 We trusted the, you know,
22 contractor to go to work. I come
23 back and it's like that's not what
24 the doctor ordered, you know.

25 Thank you.

1 H A D I D S I T E P L A N

2 MR. CAPPELLO: In saying that
3 -- can I just suggest to the Board if
4 we could have a meeting? Maybe if
5 your engineer, Ross, and the
6 geotechnical engineer could look, and
7 we could certainly invite the
8 neighbors to go there, to see what
9 can be done to reduce the fill on the
10 south side and still keep the
11 integrity of the pool.

12 I don't know if we could get
13 below 1,500 cubic yards, but we could
14 get closer to that. That is the
15 threshold that would require a
16 Planning Board review.

17 We're willing to do that and
18 work with that. Hopefully if we
19 could do that sooner rather than
20 later before -- I think we have a
21 week left of the balmy weather before
22 the tide turns.

23 MR. WINGLOVITZ: I just want to
24 point out that Frank's comment, what
25 could we do to make the neighbor

1 H A D I D S I T E P L A N

2 happy, I -- and I've never been
3 involved in a project where you had a
4 petition submitted with so many
5 people in the neighborhood in favor
6 of the project. There was only one
7 person who spoke out against it.
8 Every one of the neighbors support
9 the project.

10 I can't say that you guys have
11 ever had that before. I've never
12 been involved in a project that's had
13 that kind of support.

14 MR. DOMINICK: I don't think
15 that's a fair statement. I don't
16 think that's a fair statement because
17 their view is not blocked. This
18 neighbor's view is. Let us finish
19 our comments.

20 MR. WINGLOVITZ: We're talking
21 about the one person.

22 MR. CAPPELLO: We said we would
23 meet there to do that.

24 But as long as you're talking
25 fair, I would also hope that you

1 H A D I D S I T E P L A N

2 would take into account that part of
3 the reason the view is blocked is
4 because this house is closer to the
5 side line than the houses in the
6 neighborhood, which is why they went
7 when they expanded it and got an area
8 variance to block their neighbor's
9 view that was granted by the Town.

10 If we are talking fairness and
11 talking overall, I think you need to
12 take that into account as well.

13 CHAIRMAN EWASUTYN: Stephanie
14 DeLuca? Do you want to catch your
15 breath and we'll come back to you?

16 MS. DeLUCA: I want to wait for
17 a minute. I want to think some more.

18 CHAIRMAN EWASUTYN: Ken
19 Mennerich?

20 MR. MENNERICH: I have a
21 question.

22 In the letter of December 1st,
23 Mrs. Hadid, on page 2 it says in the
24 first full paragraph, "Given that all
25 the engineering issues with the fill

1 HADID SITE PLAN

2 placement and the pool construction
3 had been adequately addressed
4 previous to the Board meeting, it is
5 our understanding that the Board had
6 based their decision on the issues
7 that were voiced by our neighbors
8 during the meeting."

9 It's talking about the view and
10 endangering the children. I guess
11 I'm concerned.

12 The work that was done as a
13 result of the Planning Board getting
14 involved was on the downhill slope of
15 it. There's been issues from the
16 Building Department that we heard
17 about about concern of what's
18 actually underneath the pool. Have
19 those issues been addressed?

20 MS. HADID: Yes. I do have a
21 letter. We did put like a small 4
22 feet retaining wall to support the
23 pool, again because of the slope, and
24 that my contractor -- the contractor
25 told me at 4 feet you don't need a

1 H A D I D S I T E P L A N

2 permit. We did it. So he did that
3 concrete. He told me exactly if you
4 don't put this to support the pool, I
5 don't guarantee the pool because of
6 the slope. So we did that retaining
7 wall and I -- the contractor told me
8 it needs to be inspected by a
9 structural engineer. The structural
10 engineer, his name is Matthew Cilla.
11 I do have that report with me if you
12 would like it. I gave the report to
13 the Town.

14 CHAIRMAN EWASUTYN: Jim
15 Campbell, the issue of the pool and
16 what's under the pool, what's your
17 opinion on that?

18 MR. CAMPBELL: I am not the
19 inspector on the job and I do not
20 know what's underneath there.

21 I know that is an issue that
22 will need to be addressed for the
23 pool permit to be reissued. It would
24 be -- it would need to be from a
25 design professional.

1 H A D I D S I T E P L A N

2 MR. CAPPELLO: We did have a
3 geotechnical report. That
4 geotechnical report was reviewed by
5 the Town's special geotechnical
6 engineer that was hired to look at it
7 on the Town's behalf. He signed off
8 on it. But if there's any questions
9 that either --

10 MR. CAMPBELL: Was the wall
11 specifically supporting the pool
12 addressed?

13 MR. CAPPELLO: If it needs to
14 be, we will.

15 MR. WINGLOVITZ: They did have
16 an engineer look at it. He evaluated
17 it and there's a letter from him.
18 That would be dealt with directly
19 with the Building Department as part
20 of any permit. I'm sure Jim is not
21 going to look at it now.

22 CHAIRMAN EWASUTYN: Stephanie,
23 did you collect your thoughts?

24 MS. DeLUCA: I'm going to
25 abstain again.

1 H A D I D S I T E P L A N

2 CHAIRMAN EWASUTYN: Dave
3 Dominick?

4 MR. DOMINICK: Dr. Hadid, I
5 really appreciate you coming here and
6 taking time to talk to us.

7 Really, you know, like Frank
8 said, now it sounds like a neighbor
9 versus neighbor issue. When you
10 start bringing in photos and drawing
11 our attention to your neighbor's
12 deck, which this really is not the
13 issue of the deck. The issue is your
14 swimming pool. I think that's where
15 we have to refocus our attention to,
16 the swimming pool, and not what
17 number 32 residents did ten, twelve
18 years ago with their deck as they
19 went through that process.

20 The issue before us is the
21 swimming pool. We have to look at
22 how to resolve that.

23 MR. CAPPELLO: Then I would
24 reiterate and request that you review
25 my letter and review the provisions

1 H A D I D S I T E P L A N

2 of the clearing and grading law in
3 what you are tasked with looking at,
4 which is the stormwater concerns, the
5 compaction concerns, not the viewshed
6 concerns. It is just not there.

7 We have said we would be
8 working with you, but there can't be
9 two standards here. If your standard
10 is going to be the impact on the view
11 and the character of the community,
12 then you need to take that whole
13 character. If your impact is to be
14 just look at the pool, then you need
15 to look at the pool based upon what
16 your clearing and grading law says.
17 Your clearing and grading law
18 mentions nothing about the view. It
19 mentions everything about the
20 compaction, about the erosion, which
21 we addressed with the geotechnical
22 report, what your geotechnical
23 engineer reviewed and signed off on.

24 You can't have it both ways.
25 I'm sorry, I'm not trying to be

1 H A D I D S I T E P L A N

2 argumentative, but I feel like you're
3 looking for reasons here to be
4 against this.

5 Your job, as you've dispensed
6 it so well over the many years that
7 I've been here, is to look at the
8 provisions of the law and apply it.
9 I think if you do, this warrants a
10 permit.

11 Having said all that, we will
12 look to see if we can make it better.

13 CHAIRMAN EWASUTYN: John Ward?

14 MR. WARD: I've said it from
15 the beginning and you just said it
16 about compacting. The study said it
17 needs to be supervised, the
18 compacting, and it's per layer. You
19 got all the dirt there. You're
20 compromising dirt.

21 Me personally, you should start
22 from the beginning with the dirt and
23 compact at whatever level you want,
24 but there's somebody watching you and
25 knows what it is for the safety of

1 H A D I D S I T E P L A N

2 the dirt washing out.

3 That's all I have to say.

4 CHAIRMAN EWASUTYN: The
5 question that I was talking to Ken
6 Mennerich about, as the vice
7 chairman, it may be appropriate to
8 all meet at the site. Of course we
9 would have to make that a public
10 notice because there would be a
11 quorum.

12 Ken, when do you think that
13 should be done?

14 MR. MENNERICH: I think it
15 would be best to be done when you can
16 give us an idea of how much you can
17 cut back from what's there now, at
18 least the concept plan of what you
19 think you can scale back on the
20 amount of fill that's there, so we
21 have some sort of idea.

22 I mean when you see it right
23 now, it looks pretty drastic, the
24 wall of dirt.

25 MR. WINGLOVITZ: We'll prepare

1 HADID SITE PLAN

2 a plan based on Mr. Hadid's comments
3 and scale that back, especially on
4 the south end.

5 MR. CAPPELLO: Just once we do
6 that, I would -- once we have snow
7 cover, I mean I'll say a prayer with
8 all of you that we don't have snow
9 cover, but, you know, we will
10 endeavor to submit that as quickly as
11 possible.

12 I would say here upon
13 submission we will submit a copy
14 directly, at the same time, if you
15 okay it, to Ms. McMillan, the
16 attorney for the neighbors, so they
17 have it. Whenever you're there, and
18 you're right, it's a public meeting,
19 I think the only public folks that
20 would want to be there would be the
21 two neighbors. We would give them
22 notice so everybody is working on the
23 same page.

24 We want to work this out.

25 CHAIRMAN EWASUTYN: Frank, are

1 H A D I D S I T E P L A N

2 you in agreement with that?

3 MR. GALLI: I'm okay with that.

4 CHAIRMAN EWASUTYN: Stephanie?

5 MS. DeLUCA: Yes.

6 MR. MENNERICH: Yes.

7 CHAIRMAN EWASUTYN: Dave?

8 MR. DOMINICK: I would like to
9 hear advice from Dominic first.

10 CHAIRMAN EWASUTYN: This is a
11 Board decision. It's a Board
12 decision if we want to go out in the
13 field and see if we can come up with
14 a reasonable solution. It's not a
15 legal matter. It's if we want to
16 come up with a reasonable solution.

17 MR. DOMINICK: I have no
18 comment at this time.

19 CHAIRMAN EWASUTYN: John Ward?

20 MR. WARD: I hold to what I
21 said about removing it and compacting
22 all the way down. That's my view on
23 what's got to be done.

24 CHAIRMAN EWASUTYN: What's the
25 matter of compacting it? I'm not

1 H A D I D S I T E P L A N

2 quite sure on that.

3 MR. WINGLOVITZ: One of the
4 reasons that we had a geotech
5 engineer look at it was because there
6 was no documentation of what was
7 compacted and what effort was put
8 into stabilizing the fill as it went
9 in. As part of that concern Pat
10 asked for a geotechnical evaluation.
11 So he did -- they did hire a
12 geotechnical engineer who studied it.
13 Part of what he was studying was the
14 compaction of the fill. They did
15 borings, they looked at how stable
16 the fill would be based on the low
17 counts that they got, and they
18 determined that by cutting it back to
19 these slopes, based on the
20 information that they got from the
21 fill that was there, that it would be
22 stable.

23 To be compact you have to take
24 it all out and put it all back in.
25 Based on the geotechnical engineer's

1 HADID SITE PLAN

2 evaluation, it is stable in the
3 condition it was put in. They
4 basically did scientific studies post
5 the fill being put in to determine it
6 was stable.

7 MR. MENNERICH: Were any of
8 those borings done by the pool itself
9 or were they all done down -- where I
10 saw them they were down on the slope.

11 MR. WINGLOVITZ: They were done
12 in the main fill sections below the
13 pool.

14 MR. MENNERICH: Below the pool?

15 MR. HINES: East of the pool.

16 MR. WINGLOVITZ: Which is where
17 the thickest fill was.

18 MR. MENNERICH: Not under the
19 pool?

20 MR. WINGLOVITZ: Correct.

21 MR. HADID: It was done
22 afterward. I'm sorry. It was done
23 afterward so it's not in the pool.
24 It's the surrounding area. Five
25 areas.

1 H A D I D S I T E P L A N

2 MR. WINGLOVITZ: Yes. There
3 were five borings done. They did
4 them in the highest fill areas so it
5 would be the worst case scenario. One
6 additionally was done right along the
7 property line nearest a resident to
8 the south. For that slope
9 specifically there was also one done
10 for that.

11 CHAIRMAN EWASUTYN: When would
12 be a timeline that, based upon what
13 Ken Mennerich was discussing, you
14 would have the information? Then we
15 would have to notice that legally.
16 What kind of timelines are we looking
17 at?

18 MR. WINGLOVITZ: You have a
19 meeting January 7th?

20 CHAIRMAN EWASUTYN: 6th.

21 MR. WINGLOVITZ: What kind of
22 lead time? I could get it in next
23 week for January 7th if that was the
24 case.

25 CHAIRMAN EWASUTYN: You could

1 H A D I D S I T E P L A N

2 get what in next week?

3 MR. WINGLOVITZ: I can get a
4 revised grading plan showing, you
5 know, what --

6 CHAIRMAN EWASUTYN: We want to
7 meet out in the field also I think
8 prior to the submission. Right? Or
9 do you want to see the submission and
10 then go out in the field? I'm not
11 quite sure. What are you thinking?

12 MR. MENNERICH: I was thinking
13 I would like to see the submission
14 just to get an idea of how much it
15 would improve. I've seen it the way
16 it is now. It's not going to change.

17 CHAIRMAN EWASUTYN: So the
18 submission that you would make, would
19 there be stakes in the field to
20 identify the areas that we're going
21 to be looking at on paper?

22 MR. WINGLOVITZ: We can cut it
23 back on the plan. If we agree to it,
24 you can use stakes in the field to
25 show where the new top of the slope

1 H A D I D S I T E P L A N

2 would be.

3 That would probably be the most
4 effective information we could
5 convey --

6 CHAIRMAN EWASUTYN: Okay.

7 MR. MENNERICH: It would be
8 helpful.

9 MR. WINGLOVITZ: -- to show you
10 how much is being pulled back. I
11 think that would probably be the
12 best.

13 CHAIRMAN EWASUTYN: Then we
14 would go out in the field -- notice
15 and go out in the field and look at
16 it in the field? Is that what you're
17 saying? When do you want to go out
18 in the field as a group?

19 MR. MENNERICH: After it was
20 marked.

21 CHAIRMAN EWASUTYN: Okay.
22 Frank, are you in agreement?

23 MR. GALLI: As long as you do
24 it when I'm in town.

25 CHAIRMAN EWASUTYN: Stephanie?

1 HADID SITE PLAN

2 MS. DeLUCA: Yeah, I think it
3 would be helpful.

4 CHAIRMAN EWASUTYN: Ken?

5 MR. MENNERICH: Yes.

6 CHAIRMAN EWASUTYN: Myself in
7 agreement.

8 Dave?

9 MR. DOMINICK: Yes.

10 CHAIRMAN EWASUTYN: John Ward?

11 MR. WARD: I'm on the fence.

12 CHAIRMAN EWASUTYN: Okay. So
13 why don't we move in that direction
14 to see if we can have a meeting of
15 the minds. We'll invite as many
16 people as we can get. You can
17 coordinate with Ms. McMillan if she
18 wants to be out in the field.

19 We'll do our best to come up
20 with something that benefits all
21 parties.

22 MR. CAPPELLO: I appreciate
23 your time. Thank you very much.

24 MR. WINGLOVITZ: Thank you.

25 MR. HADID: Thank you very much

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for your time and your effort. We
wish you happy holidays.

(Time noted: 10:06 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 3rd day of January 2022.

Michelle Conero

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

DARRIGO SOLAR
(2019-24)

86 Lakeside Road
Section 86; Block 1; Lot 96
R-1 Zone

----- X

PROJECT STATUS UPDATE

Date: December 16, 2021
Time: 10:06 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JEFFREY LEASE

----- X

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

1 DARRIGO SOLAR

2 CHAIRMAN EWASUTYN: The ninth
3 and final item of business this
4 evening is the Darrigo Solar Farm.
5 It's a project status update located
6 on Lakeside Road in an R-1 Zone.
7 It's being represented by Jeffrey
8 Lease.

9 MR. LEASE: Good evening. I'm
10 Jeff Lease.

11 I want to report as to the
12 status of the solar farm at
13 84 Lakeside Road. That project is
14 moving forward. The first part of
15 the clearing has been done. The
16 trees are down within the timeframe.

17 We then took the approval and
18 brought it to NYSERDA. NYSERDA sat
19 on the approval until September.
20 With that we have our NYSERDA awards
21 for the project.

22 We are now trying to cull
23 together all of the prices for solar
24 panels and the supports. There's been
25 something of a delay in trying to get

1 DARRIGO SOLAR

2 prices on the supports. The solar
3 panels, we finally secured the right
4 type. There are 17,450 solar panels
5 necessary for this project. But the
6 supports have been something of a
7 problem, and also trying to get
8 accurate prices on labor has been a
9 real holdup.

10 I think what's going to happen
11 here is that we should be able to
12 resolve everything by January and we
13 should be able to see a spring start.

14 That's where we are. The
15 project really is not changed at all.

16 I just need to get in touch
17 with Karen Arent. We submitted a new
18 buffer plan with deciduous trees
19 along the path road property which
20 she asked for. We submitted that.

21 We have all of the posts for
22 the pillars and all the landscaping
23 material and the gravel.

24 So we have all our prices
25 together on some of the soft costs.

1 DARRIGO SOLAR

2 It's just some of the inverters and
3 the extensions that are taking
4 awhile. That's it. It's going to be
5 a wonderful project.

6 After it's completely built --
7 I think the construction period the
8 engineers tell me will take no longer
9 than 45 days, and then it will take
10 Central Hudson upwards of between 30
11 and 90 days to actually turn the
12 project on. They have to do some
13 testing and some other features that
14 I don't completely understand.

15 CHAIRMAN EWASUTYN: I had a
16 short conversation with Jeffrey as
17 far as submitting. I was surprised
18 when he said that the solar panels
19 work actually from the ground up,
20 that they also grab energy from the
21 ground.

22 MR. LEASE: In order to reduce
23 the total number of panels the
24 engineering company from New York,
25 now named Power Flex, has decided to

1 DARRIGO SOLAR

2 use bifacial panels.

3 The actual submission might be
4 somewhat smaller than what we
5 originally had because we're limited
6 in capacity as to what we can put out
7 to Central Hudson. It can't get any
8 larger than what it was.

9 The panels that we're using now
10 are more efficient than what were
11 originally designed. It seems like
12 every six months they become
13 different.

14 So this is called a bifacial
15 panel. They receive some 20 to 40
16 percent of their total energy input
17 from the underside of the panels,
18 from the grass during the summer and
19 the snow during the winter. I never
20 heard of such a thing.

21 CHAIRMAN EWASUTYN: Questions
22 or comments from the Board?

23 MR. WARD: Your copy that you
24 sent to Karen, did you send it to
25 John?

1 DARRIGO SOLAR

2 MR. LEASE: I did. I believe
3 it's included as part of the package.

4 MR. WARD: That's what I'm
5 asking.

6 MR. LEASE: Yes, sir.

7 CHAIRMAN EWASUTYN: Pat, do you
8 have anything to add?

9 MR. HINES: No. Mr. Lease has
10 been checking off some of the
11 conditions of approval as he's been
12 waiting, as recently as today filling
13 out some MS-4 paperwork.

14 I know his engineer is working
15 on the bonding that we're looking for
16 as well. We've been working with his
17 engineer and checking off some boxes
18 as we're going along.

19 CHAIRMAN EWASUTYN: Jim
20 Campbell?

21 MR. CAMPBELL: No comments.

22 CHAIRMAN EWASUTYN: I think
23 it's nice to have you here at the
24 close of the year because we spent so
25 much time together.

1 DARRIGO SOLAR

2 MR. LEASE: Absolutely.

3 CHAIRMAN EWASUTYN: I'm sure
4 you learned a lot.

5 MR. LEASE: I have. Thank you.

6 CHAIRMAN EWASUTYN: Can I have
7 a motion to close the Planning Board
8 meeting of the 16th of December?

9 MR. GALLI: So moved.

10 MS. DeLUCA: Second.

11 CHAIRMAN EWASUTYN: I have a
12 motion by Frank Galli. I have a
13 second by Stephanie DeLuca. Can I
14 have a roll call vote.

15 MR. GALLI: Aye.

16 MS. DeLUCA: Aye.

17 MR. MENNERICH: Aye.

18 CHAIRMAN EWASUTYN: Aye.

19 MR. DOMINICK: Aye.

20 MR. WARD: Aye.

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22 (Time noted: 10:12 p.m.)

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1 DARRIGO SOLAR

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