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

----- X

In the Matter of

TADDEO/POLLOCK

Project No. 15-8008
24 & 26 Main Street
Section 103.9; Block 2; Lots 29 & 30

----- X

SKETCH - LOT LINE REVISION

Date: August 17, 2015
Time: 7:30 p.m.
Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

BOARD MEMBERS: JOEL TRUNCALI, Chairman
BEN TRAPANI
CINDY LANZETTA
STEVEN CLARK
EMANUEL CAUCHI

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
KATHI NATLAND
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: BILL EGGERS

----- X

MICHELLE L. CONERO
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Wallkill, New York 12589
(845) 895-3018

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CHAIRMAN TRUNCALI: If we all could
rise for the Pledge to the flag.

(Pledge of Allegiance.)

CHAIRMAN TRUNCALI: "Agenda, Town of
Marlborough Planning Board, August 17, 2015.
Regular meeting 7:30 p.m. Approval of
stenographic minutes for 6/15, 7/6.
Taddeo/Pollock, sketch, lot line revision; N&A
Development, sketch, lot line revision; Cellco
Partnership d/b/a Verizon Wireless, sketch,
amended site plan; Kedem Winery, sketch, amended
site plan; Santini/Bizzy Bears, sketch, site
plan. Next deadline: Friday, August 21st. Next
scheduled meeting: Tuesday, September 8th."

Taddeo/Pollock. Is anyone here for
that?

(No response.)

CHAIRMAN TRUNCALI: I guess we'll skip
them until later if they come.

The stenographic minutes for 6/15, we
can vote on approving those.

MS. LANZETTA: Did we get those?

MR. TRAPANI: The last time.

MS. LANZETTA: I thought we approved

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everything.

CHAIRMAN TRUNCALI: The ones for 7/6
we'll hold off on until the next meeting.

Do I have a motion to approve the
minutes for 6/15?

MR. TRAPANI: I'll make that motion.

CHAIRMAN TRUNCALI: A second?

MS. LANZETTA: I'll second it.

CHAIRMAN TRUNCALI: All in favor?

MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. CLARK: Aye.

MR. CAUCHI: Aye.

CHAIRMAN TRUNCALI: Aye.

All opposed?

(No response.)

CHAIRMAN TRUNCALI: So carried.

I'd like to welcome our new Board
Member, Manny Cauchi. Welcome.

(Time noted: 7:35 p.m.)

(Time resumed: 8:38 p.m.)

CHAIRMAN TRUNCALI: Is there anyone
here for the Taddeo application? You missed your
turn.

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MR. EGGERS: I was trying to find the door. I missed it. I didn't know you were meeting in the courtroom. I was on the other side of the building.

MR. HINES: You were lonely.

MR. EGGERS: There are no cars there.

My name is Bill Eggers, I'm a land surveyor with Medenbach & Eggers in Stone Ridge representing what we're terming a lot line adjustment between Robert Pollock and lands of Taddeo. This is on Main Street between the new bakery and laundromat. It's that building and the building to the right of it, the property line between them.

There was a disagreement on the lines. We took the opportunity to clean up the disagreement and also fix the line at an agreeable location between the parties. That's what we're here for is to say this is where they have agreed to the line. We just need the Board to give their approval to that lot line agreement.

CHAIRMAN TRUNCALI: Pat, did you want to go over your comments?

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MR. HINES: I can't for the life of me figure out where this property line is. Maybe you can help me. Was there a place --

MR. EGGERS: There was an overlap technically. I felt there was an overlap.

MR. HINES: I'm sorry but I'm going to have him point this out. I've got two lot lines to be deleted and a new lot line.

MR. EGGERS: This is where we were saying that Pollock's line was and this is where his surveyor was saying his line was. There was a dispute about five feet out in the street and then it narrows down to a point in the back. What we've done is compromise so much down the middle.

MR. HINES: My concern is here somewhere -- I'm worried about creating a zoning issue on the five-foot side yard setback based on where the line actually was. This zone has a five-foot side yard.

MR. BLASS: Where is the zone line?

MR. HINES: The zoning -- it's all in the same zone. Each of these buildings has either a zero lot line or if it's not zero it's

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five feet.

MR. BLASS: The new compromised line might make a deficiency for setback?

MR. HINES: Correct.

MR. EGGERS: Somebody thought the line before was not in conformance.

MR. BLASS: You don't want to create a zoning deficiency if you can avoid it, otherwise you need a variance.

MR. HINES: It does by default. If this was the property line, then I'm making this worse. If this was the property line, then I'm making this worse. Striking a line down the middle is creating a zoning issue but I don't know which one is right or wrong. I'm wondering if there's a way to do this not involving the Planning Board.

MR. EGGERS: That was actually my -- originally I told them it's not a boundary agreement, it's not a boundary adjustment. We have a discrepancy over the line, you just agree to where it's supposed to be and just be done with it. The attorney for one of the parties said oh no, no, I want to get a map filed and

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make sure they don't have issues in the future with title. That's why we're here. I thought we should just sign the agreement and say that's it.

MR. BLASS: Maybe you want some time to reconsider.

MR. EGGERS: I've been considering this for almost a year now.

MR. HINES: I stared at it for about an hour and I couldn't figure out what was going on. Now I know there's a discrepancy in the property lines. The side yard setback in the zone is five feet. It's either zero if their lots are touching, which is fine, or five feet.

MR. CLARK: The buildings are there. They're existing.

MR. HINES: That's fine in that condition. By changing the lot line you're making one or more of them less conforming which creates a zoning bulk table issue. I understand the commonsense reason but --

MR. BLASS: Commonsense might dictate reconsideration of the attorney's opinion on the wisdom of having the map as opposed to just handling this inhouse.

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MR. EGGERS: Otherwise you're saying you think it would have to go -- I heard somebody say the Zoning Board of Appeals. A variance just to do something that really is not an issue to begin with.

MR. BLASS: You're looking to maintain the buildings that exist now?

MR. EGGERS: Right. There's no change.

MR. BLASS: To eliminate some sort of potential property line dispute between neighbors?

MR. EGGERS: Right.

MR. BLASS: Maybe you want to do that privately. I mean if you took it back and had people reconsider their positions, they might just --

MR. EGGERS: I only have one person who has an issue with that and that's an attorney, so --

MR. BLASS: Well, they've been known to change their mind.

MR. EGGERS: Yes. All right.

MR. HINES: You're going to go before the ZBA and they are going to say what relief do

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you want.

MR. EGGERS: Right.

MR. HINES: I don't know. I just know by moving it you're making one of the side yards less conforming.

CHAIRMAN TRUNCALI: How come I don't see where they are moving it?

MR. HINES: Let me jump in here now that I know what's going on and try to help. The surveyor's opinion on here is that this is one person's lot line they say and this is one person's lot line. So in between those two points is a boundary dispute. This commercial building thinks that's their property line. This house thinks that's their property line. The deal was they're going to split it somewhere down here. By doing that they're making this building less conforming or this building less conforming, and neither of them have a five-foot side yard. You would have to send it to the ZBA.

CHAIRMAN TRUNCALI: How far from this building? How far are you?

MR. EGGERS: It's three feet three inches from here and this is six foot four over

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here. So we've got -- we don't have room for five feet. You can't get five feet at either end.

CHAIRMAN TRUNCALI: You're making it less conforming. He was conforming.

MR. HINES: He was conforming under his survey. That was the bakery. We reviewed it as the bakery and we said it's conforming.

MR. CAUCHI: What do you think should be done?

MR. HINES: I like the idea of him doing the boundary agreement and not involving -- I don't think you can approve it because you're an administrative review board and it says it's either five feet or zero feet. It would have to go to the ZBA is their next step. He can try and have the ZBA grant whatever relief they can figure out. Those are the two options, it goes to the ZBA to explain this and they strike some --

MR. EGGERS: Usually if something is nonconforming and you make it less nonconforming --

MR. HINES: I would agree. If

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you're making it less conforming you would be okay.
Either way you move this line you're making one or
the other more nonconforming. There's either the
ZBA relief or a private agreement through the
attorneys I believe. Ron is saying that's possible.
That doesn't get you a filed map.

MR. EGGERS: No. Then they can --

MR. HINES: The ZBA relief does. ZBA
back to here.

MR. EGGERS: I'll see how far they want
to string it out. See the date on the map there?
February. That was when we actually came to
terms on where the line was going to be. That
took about four months to get to that point.

MR. GAROFALO: I have a question. Can
they just decide which of the lines is correct?

MR. HINES: No.

MS. LANZETTA: It goes to the ZBA.
Either way it goes to the ZBA.

MR. GAROFALO: If they agree -- let's
say one of them paid off the other, here is some
money, could they jointly say --

MR. HINES: They being the parties
involved here? Absolutely.

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MR. GAROFALO: It would actually make it cheaper for them.

MS. LANZETTA: That's what we're suggesting.

MR. GAROFALO: Let's decide one way or the other, whoever gets the more property is who pays more.

MR. HINES: That's sounds easy too. Have you ever had property taken away from you?

MR. GAROFALO: Just a suggestion.

MR. EGGERS: Just to get them to agree on a compromise, that was --

CHAIRMAN TRUNCALI: All right. Sorry we couldn't help you.

MR. EGGERS: Thank you.

CHAIRMAN TRUNCALI: Is there any other new business?

MR. TRAPANI: No.

CHAIRMAN TRUNCALI: Then I'll entertain a motion for adjournment.

MR. TRAPANI: I'll make that motion.

MR. CAUCHI: I'll second it.

CHAIRMAN TRUNCALI: All in favor?

MR. TRAPANI: Aye.

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MS. LANZETTA: Aye.

MR. CLARK: Aye.

MR. CAUCHI: Aye.

CHAIRMAN TRUNCALI: Aye.

(Time noted: 8:49 p.m.)

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

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: September 7, 2015

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

----- X

In the Matter of

N&A DEVELOPMENT

Project No. 15-8003
Summit Drive
Section 108.4; Block 6; Lots 29.310

----- X

SKETCH - LOT LINE REVISION

Date: August 17, 2015
Time: 7:35 p.m.
Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

BOARD MEMBERS: JOEL TRUNCALI, Chairman
BEN TRAPANI
CINDY LANZETTA
STEVEN CLARK
EMANUEL CAUCHI

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
KATHI NATLAND
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: NICHOLAS GALLELA

----- X

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CHAIRMAN TRUNCALI: N&A

Development.

The last time you were here you had a few things to change on your map and your application.

MR. GALLELA: The new map has been corrected, and the application has been as well. Everything is here.

MR. HINES: The last time it was presented as a sketch. You have the survey now from the licensed surveyor that's been stamped. The metes and bounds for all the lots that are involved have been added to the plans depicting compliance with the zoning and bulk tables for each of the respective lots.

Our only outstanding comment left was it requires a public hearing for the lot line change.

CHAIRMAN TRUNCALI: We did request the moving of the driveway on the one lot which you did do?

MR. GALLELA: Yes.

MR. CLARK: Was the short form E.A.F. redone?

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MR. HINES: They did submit a new short form E.A.F., yes.

CHAIRMAN TRUNCALI: Does anyone else have anything?

MS. LANZETTA: For the public hearing is your surveyor going to be here?

MR. GALLELA: I haven't asked him to be, no.

MS. LANZETTA: You would just --

MR. GALLELA: I'll be here.

MS. LANZETTA: -- representing yourself?

MR. GALLELA: Yes.

MS. LANZETTA: Okay.

CHAIRMAN TRUNCALI: If there's nothing else, I can entertain a motion to schedule for a public hearing.

MR. TRAPANI: I'll make that motion, to schedule a public hearing on this case.

MR. CLARK: I'll second it.

CHAIRMAN TRUNCALI: All in favor?

MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. CLARK: Aye.

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MR. CAUCHI: Aye.

CHAIRMAN TRUNCALI: Aye.

All opposed?

(No response.)

MR. GALLELA: Thank you.

CHAIRMAN TRUNCALI: What is the date of
the next public hearing?

MS. NATLAND: September 8th, --

CHAIRMAN TRUNCALI: September 8th.

MS. NATLAND: -- Tuesday.

(Time noted: 7:38 p.m.)

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

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: September 7, 2015

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

----- X
In the Matter of

CELLCO PARTNERSHIP
d/b/a VERIZON WIRELESS

Project No. 15-8007
Mt. Zion Road
Section 102.3; Block 1; Lots 36.1

----- X

SKETCH - AMENDED SITE PLAN

Date: August 17, 2015
Time: 7:38 p.m.
Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

BOARD MEMBERS: JOEL TRUNCALI, Chairman
BEN TRAPANI
CINDY LANZETTA
STEVEN CLARK
EMANUEL CAUCHI

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
KATHI NATLAND
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: DAVID BRENNAN

----- X

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CHAIRMAN LOGUE: Kedem Winery.

MR. HINES: Do you want to do Verizon?

CHAIRMAN TRUNCALI: Did I skip one?

Sorry. Hold up. All right. Is Verizon Wireless here?

MR. BRENNAN: Good evening. May I sit down? My name is Dave Brennan, I'm with the law firm of Young, Sommer. I'm filling in. My associate, Hyde Clark, was here I think at one of the last meetings. I'm filling in for Mr. Clark.

We're here this evening on a proposed co-location of twelve new antennas on an existing 260 foot guide tower on Mt. Zion Road. Verizon Wireless is proposing to add twelve antennas at the 160 foot center line height and also add a twelve-foot by thirty-foot equipment shelter at the base of that tower.

I believe at the last meeting it was referred out to the Planning Board's consultant, Mr. Musso, who I have heard of him but I've never actually met him. I don't know if he's here this evening.

CHAIRMAN LOGUE: He's here tonight.

MR. BRENNAN: Excellent. I know Scott

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from my office deals with him more regularly but I haven't.

I think the materials have been submitted and we're here maybe for an interim report. I defer to the Board and their consultant on how you want to handle this. Maybe we can see where we are with the status and go from there.

MR. MUSSO: I have some verbal comments to make, Mr. Chairman, if that's okay for tonight.

We received supplemental information from the applicant last week. At the July 20th meeting they picked up an application after the AT&T hearing was over. We started reviewing it. I visited the site also because I hadn't been there in quite awhile. I have some pictures for you tonight I want to run through quickly. We put together a list of clarification needs and additional info.

The applicant I think was responsive to our information request, which I'll go over point by point in a minute. We are just

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finishing up a couple clarifications and we'll submit a tech memo, much briefer I think than the alternate site analysis we had up on the screen for the other application, before the next meeting. I think it is appropriate for you guys to consider a public hearing perhaps.

Let me run you through what we have so far and my preliminary comments. These are some photos from the Mt. Zion Road tower site. These were taken on July 29th. I just wanted to orient you in case you maybe haven't been there in quite awhile.

Just running through these very quickly. The first photo is the ground-based area.

MR. BRENNAN: Could I have a copy, please?

MR. MUSSO: Yes. The first photo is the ground-based area. You might notice some bollards and chains out front. That's a recent update on the tower site. The tower is owned by American Tower which is a large nationwide cell tower infrastructure company. They're not a

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carrier but they're the owner and operator of this tower.

Just flipping through, in the second photo you can see an existing AT&T array. The proposed Verizon array is going to look similar to this. It's about ten feet below this one at 160 feet. You can also see some existing antennas above that. One of the things we had asked for was a full inventory of who is on this tower now. I knew about AT&T working on this in the past but there are other antennas. We did receive that, so we have a full inventory and understanding of who is there.

The next photo shows the anchoring for the guide cables. This is a lattice tower but it's designed and supported by guide cables.

As you might notice in the following photograph, this is an upgrade that's been done. I believe it was done in 2014. American Tower had gone before the building department to do some upgrades on this, probably anticipating a co- location in the future. So there were some upgrades at the site. The site I think is generally well maintained based on my experience

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with cell towers.

The following photo shows an equipment cabinet. This is at the base of the tower. Verizon will be proposing something very similar to this right next to the existing.

You can see some fencing after that, a view back to Mt. Zion Road. Just the general nature.

The last two photos show the top view of the tower. So again, this is a 260 foot tower. It's a pretty tall tower. There's lighting that exists on it. That is needed.

Verizon is not looking to increase the size of the tower or the design or the cables. I think that's already been done. They're looking to place another array below the existing AT&T one.

What we had asked about, and just to run you through that, we wanted to see a copy of the structural assessment of the tower. It wasn't provided -- it was not provided with the initial materials. We wanted to give a check of that. We have a structural engineer who also visited the site with me. He's happy with that

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report. We have a couple clarifications to make regarding the inclusion of Verizon and the overall findings of the structural analysis. It says it passes with modifications. The report is from 2014. Part of the supplemental materials say hey, these modifications have been made already. So we need to connect the dots in our memo, which we'll do in a paragraph or two.

We also asked about the equipment shelter. There is a ground-based shelter, thirty feet long by twelve feet wide, right off a box truck, usually brown color. That's where Verizon will store it's radios and base station equipment.

The applicant is proposing not to extend the fencing of the existing equipment compound. You may have seen in the photos those equipment cabinets are within a fenced-in area. They give some justification for doing that. They would need more setback which would eat into the access path that goes up to the site, and certainly they need to maintain responsibility that these things are locked and secured. So that's something I'll put into our memo and

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perhaps a consideration for this Board to opine on. I've seen it both ways. Much of the time there's a dedicated, completely fenced-in area at the base of the tower, but I have worked on Verizon applications in Orange County where they weren't into bumping out the fencing and they have a complete secure equipment compound of their own. So they did provide clarification on that.

I wanted to check also that all of the anchors for the guide cables are on American Tower property. They confirmed that they are. Some of these go quite a distance away from the tower when you visit the site.

I think there Mr. Hines had brought up at the last meeting whether or not they were on someone else's property. I think that's all been resolved.

MR. HINES: In 2005 they were here for the application then, some lot lines changes. At that time they were on adjoining properties.

MR. MUSSO: Thanks, Pat. That was at the time AT&T first co-located. It makes me happy that all the components of that tower are

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on the subject property.

I noted I wanted to get a full inventory of all antennas and operators, so they provided that.

I also asked a very fundamental question, you know, what is the need for the site. So I asked for coverage maps. Those were not provided the first time around but in the supplemental materials they gave me a couple maps with frequencies with and without the Verizon site. So I'll talk to Pat in the tech memo that that's justification for a site here in Marlborough. I also asked for a radiofrequency emissions report including all the antennas that exist, AT&T and the other providers, and Verizon, to make sure that at ground level there's nothing encroaching the acceptable limits for people living or working or driving by cell towers.

I also asked for a statement about the priority of the site. Priority one in the code would be existing tall structures on Town-owned property. This site is actually priority two, the second highest. It's an existing structure

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but it's not on Town property. Tectonic, one of the applicant's engineers, have provided a statement, which I'll confirm, that there's no other Town-owned property that would make sense.

I noted to the applicant that discussions on things like signage or landscaping around the ground would be part of our report, part of your discussion when the time comes.

As far as a County referral, it doesn't appear that a County referral is necessary for this. Pat might want to chime in on that. There's no County or State roads adjacent, and the Town boundary is more than 500 feet away. Tectonic had also provided an analysis of that.

One of the clarifications I need to make is the emergency generator. There will be at the site an emergency generator. It will be completely enclosed within that twelve by thirty foot shelter. Some of the things we took a look at are noise attenuation and also secondary containment. I need to see a spec on that. I hope to get that within the next couple days and that will be included in the report.

Otherwise I think it's a fairly -- I

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don't want to say straightforward application but I think this is the spirit of the code is to utilize the existing infrastructure. There will be no appreciable changes.

There was a short form E.A.F. provided. No photo simulations were provided with this. I don't advocate the need for those photo simulations. Really at a distance I think most people will not notice this new array that's up there.

That's about it. That's a thumbnail of what we received. I think it's adequate and substantially complete at this point. I'll leave it to you guys for discussion or any other questions.

CHAIRMAN TRUNCALI: Okay.

MR. TRAPANI: Where is the other storage building going to be in comparison to the one that's there now?

MR. MUSSO: So if --

MR. TRAPANI: The south side, north side of it?

MR. MUSSO: It would be on the west side.

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MR. TRAPANI: On the west side. It's going to be in front of this then?

MR. MUSSO: Yes. Toward the road on the west side. Going south you'd run into a slope --

MR. TRAPANI: Right.

MR. MUSSO: -- and also the access path that comes up.

MR. TRAPANI: East, too.

MR. MUSSO: When you go east into the woods there's an immediate drop off.

MR. TRAPANI: Not much level property.

MS. LANZETTA: That's it.

MR. TRAPANI: It's going to be right in front of here.

MR. CLARK: It's less than a tractor trailer. It's smaller than a tractor trailer.

MR. MUSSO: Twelve by thirty and about nine feet tall.

MS. LANZETTA: As in comparison to this ground building, is it comparable?

MR. MUSSO: Yes.

MR. BRENNAN: It looks just like it but it's a little bit longer. It will go across the

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front of the generator that you can see and block the view.

MR. CLARK: It's a very low density area in terms of population.

MS. LANZETTA: You think.

MR. MUSSO: The scale of the proposed is just like that but it will be towards me in my perspective taking that photo.

MR. BRENNAN: I would say that's probably a twelve by twenty shelter, give or take, that's existing. It has an external generator. It would basically I would say block --

MR. CLARK: You're almost at the end of -- it's not a dead end road but it might as well be, unless you have a serious vehicle.

MR. MUSSO: My site observations going up there, there are no signs of vandalism. It's a pretty hefty fence up there. The guide cables are in place. It looks like it's just something that's kind of tucked away off the road. The existing site seemed to be in order with everything. I was very happy that American Tower, you know, they got the structural report

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to us right away. They seemed to really be on top of the site in my opinion.

CHAIRMAN TRUNCALI: Does anyone else have anything?

MR. KNEETER: What is going to fuel the generator?

MR. BRENNAN: It's diesel.

MR. KNEETER: How big a tank?

MR. BRENNAN: 240 I think is the maximum.

MR. MUSSO: A 50 kilowatt generator. There's an outside lock built for it within the equipment shelter.

MR. KNEETER: It's going to be within the fence?

MR. BRENNAN: It's inside the building.

MR. MUSSO: It's inside the building.

MR. BRENNAN: It's a double wall tank with internal monitoring that signals back if there's any release to the intersequal space.

MR. KNEETER: Is there a dike around the tank?

MR. BRENNAN: I'm sorry?

MR. KNEETER: Is there a dike around

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the tank?

MR. HINES: Typically it's a double wall tank.

MR. MUSSO: Within the shelter.

MR. KNEETER: Thank you.

MR. CLARK: It's Marlborough Fire District.

MR. MUSSO: That's a good question. So we do need the spec on that exactly but it is 50 kilowatt. We know that from the drawings. The existing information we have. We always look at the secondary containment, and we look at noise as well.

CHAIRMAN TRUNCALI: This is not a public hearing but we will entertain a couple of questions.

MR. GAROFALO: Cell towers are an important infrastructure. I know the Town has written an emergency management plan. I think it would be a good idea to make sure that they get emergency contact information in case there's a problem.

MR. HINES: It will be on the fence.

MR. MUSSO: That's a great point.

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Signage is required by the FCC. I believe it's in the Town Code, too, under the wireless telecommunication facility. It's not something that's grossly obtrusive visually. My photos that -- you can see the existing.

MR. GAROFALO: I was thinking it should be in the plan itself and not just on the sign so they don't have to go up there, they can just call right away.

MR. MUSSO: The Town -- certainly the building inspector will have that at their fingertips. That is a good point. That's something that we'll put into the conditions. I don't think that's clear right now on what size signage and what not.

MR. BRENNAN: Okay.

MR. MUSSO: I'll give you comments on that.

MS. LANZETTA: I would like to make a motion based on the amount of information we've been given that we schedule a public hearing at our next meeting.

MR. TRAPANI: I'll second that.

CHAIRMAN TRUNCALI: All in favor?

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MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. CLARK: Aye.

MR. CAUCHI: Aye.

CHAIRMAN TRUNCALI: Aye.

All opposed?

(No response.)

CHAIRMAN TRUNCALI: So carried.

UNIDENTIFIED SPEAKER: I just had a question. I know it's not a public hearing but the anticipated improvement in the coverage you mentioned before, what is that? What benefit will it be to the Town?

MR. MUSSO: There's no Verizon facility currently in the Town of Marlborough. One of the things I had asked for was what existing Verizon sites in neighboring communities are providing some coverage within the Town boundaries. This will shoot down directly east towards the 9W corridor and in the northern part of Town.

Pat, do you have a coverage map?

MR. HINES: Yes.

UNIDENTIFIED SPEAKER: The short answer is it should be an improvement?

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MR. MUSSO: It will be.

UNIDENTIFIED SPEAKER: Hudson Valley has the worst cell phone coverage in the United States. I think Marlborough --

MR. MUSSO: It should be a substantial coverage increase certainly.

UNIDENTIFIED SPEAKER: So we will notice a difference? We won't notice a difference physically but we'll notice it in terms of our coverage as a Verizon user.

CHAIRMAN TRUNCALI: Thank you.

MR. BRENNAN: Thank you.

CHAIRMAN TRUNCALI: So the public hearing will be September 8th.

MR. BRENNAN: One quick question. As far as in the code it talks about notifying surrounding properties within 300 feet.

CHAIRMAN TRUNCALI: Contact Kathi, the secretary. She'll get you hooked up with who has to be notified.

MS. LANZETTA: Can I also ask you for the purposes of the public hearing that you bring a lot of this information in electronic form so that we can put it on the screen so the public

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will be able to view it easier?

MR. BRENNAN: Absolutely. Just for purposes of doing that, do you have a projector or --

MS. LANZETTA: We can get one, yes. You'll need one.

MR. BRENNAN: Okay. My humble experience is I'm not sure anyone will show up for a public hearing like this. Maybe I'm dealing with a different area. Maybe I'm mistaken. I'll certainly be prepared. I was going to bring presentation boards but I'll bring a thumb drive and we can do it electronically.

MS. LANZETTA: I have talked with the town councilman and he says he can make a projector available to us.

MR. BRENNAN: We have one in the office. I can just bring my own stuff and we don't have to worry about imposing on other people or compatibility issues. I'll just bring my own computer if you would prefer that.

MS. LANZETTA: That would be very nice.

MR. BRENNAN: We'll be absolutely prepared to put on the full show and answer any

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questions. I'll work with the Planning Department on the notification.

MS. LANZETTA: Thank you.

MR. BRENNAN: Thank you for your time tonight.

(Time noted: 7:54 p.m.)

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

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: September 7, 2015

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

----- X
In the Matter of

KEDEM WINERY

Project No. 14-7008
1519 Route 9W
Section 109.1; Block 1; Lot 2.100

----- X

SKETCH - AMENDED SITE PLAN

Date: August 17, 2015
Time: 7:54 p.m.
Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

BOARD MEMBERS: JOEL TRUNCALI, Chairman
BEN TRAPANI
CINDY LANZETTA
STEVEN CLARK
EMANUEL CAUCHI

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
KATHI NATLAND

APPLICANT'S REPRESENTATIVE: DENNIS LYNCH

----- X

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CHAIRMAN TRUNCALI: Next is Kedem Winery, a storage addition.

Do we have a board with an easel?

MR. LYNCH: I have an easel.

Good evening. Dennis Lynch with Day Engineering. I'm here to discuss the addition to the existing winery.

The total parcel is approximately 28 acres. What we're proposing is an existing -- a new warehouse located between two existing buildings. There is a building that's there and it's to be removed.

This is a larger scale plan. What we're proposing is 130 by 125 square foot -- I'm sorry. The building is to be approximately 16,000 square feet with some parking here which will serve the two existing buildings that are tasting rooms.

The proposed use of the buildings, it's to be strictly dry storage. This area here is kind of natural occurring. We're using that as some storage for stormwater, and also there's to be installed a new pipe to relieve any of the larger storms.

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CHAIRMAN TRUNCALI: Okay. Pat, would you like to go over your comments?

MR. HINES: We had previously discussed stormwater on the site. It doesn't exceed the threshold for the DEC stormwater regulations, however it does meet the threshold for the Town of Marlborough. Your code is a little more stringent than the DEC code. They have provided a stormwater pollution prevention plan which directs the stormwater to the low depression area to the front. Our concern was the existing drainage conditions further back and the McGloughlin Drive area. There's been some stormwater related issues back there that this site had done some mitigation in the past. We wanted to make sure no additional flows were directed there, and there's not.

They are proposing now to put a stormwater drainage system, a curtain drain underground around the entire structure and bring any of the flow from the roof drains to the front, as well as the proposed parking area will discharge there.

They have proposed a pipe across the

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driveway which will act as a relief should any of these storms exceed the design of that.

I do have a comment that the inverts need to get looked at there. It shows a five percent slope.

MR. LYNCH: That might be an error. I'll address it.

MR. HINES: They provided the calculations showing the design for the storm events in that existing low area, and that will serve to attenuate any of the increase.

We had asked about traffic from the site and they've given us traffic projections of about nine additional vehicle trips per hour.

The project is located on New York State Route 9W, so we are suggesting the DOT receive a copy of the entire application packet. They're not proposing any changes but DOT should weigh in on the acceptability of the existing driveway.

The plans need to go to Ulster County Planning for review. I don't think that's occurred yet. This is the first time we've seen the more detailed plans.

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The warehouse is identified as dry storage with no plumbing fixtures. The site is serviced by an on-site sewage treatment facility and is regulated by the DEC but there is no additional flow proposed to that facility.

This does require a public hearing.

The application is also to extinguish an existing lot line that encompasses the existing one single-family house. It's vacant. The 289 acre parcel becomes a 29 plus or minus acre parcel after this application for the lot line is to be extinguished.

MR. LYNCH: The existing lot line is right here. It's to be relocated or extinguish a lot line realignment.

MR. HINES: It's a lot smaller than you indicated. It's right behind the house.

MR. LYNCH: It's right along here. There's an existing barn that's to be removed here.

MR. HINES: It is a lot line change or consolidation and a site plan. So it needs those outside two agencies to weigh in and a public hearing. I don't think you'll hear from those

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agencies by the 8th. You might want to schedule this for your next available hearing after that.

CHAIRMAN TRUNCALI: What's to happen with that existing two-story house there?

MR. LYNCH: This one here is to remain.

CHAIRMAN TRUNCALI: Has it been vacant for many years?

MR. LYNCH: I'm not sure how long it's been vacant for.

MR. HINES: I don't know that either. We can check with the code enforcement department if it's not being used.

MS. LANZETTA: Did you say it's to remain?

MR. LYNCH: Yes.

MS. LANZETTA: With the possibility then of it being used?

MR. LYNCH: Possibly in the future, yes.

MS. LANZETTA: Then where are the -- where is the septic or well with that house?

MR. LYNCH: It's not located. I believe that it's located in this area. I can have a surveyor --

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MS. LANZETTA: We'd have to take that into account I would think so that there's no additional impact on the well.

MR. LYNCH: I can get that information for you.

MR. HINES: More importantly, I want to make sure that the new parking lot doesn't impact that as well if the well and septic are an existing condition. We want to make sure it's not impacting those.

CHAIRMAN TRUNCALI: You should show the well and septic for that house.

MR. LYNCH: I do believe they're located over here. I'll verify with the surveyor.

MS. LANZETTA: In the hydrology report it said you were looking at the amount of storage for runoff for a twenty-five year storm event.

MR. LYNCH: Twenty-five and larger storm event.

MS. LANZETTA: It says only a twenty-five year.

MR. HINES: A hundred. You have to be able to pass a hundred. You attenuate the

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KEDEM WINERY

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twenty-five and be able to show it passes the hundred.

MS. LANZETTA: That's why I was concerned, because just in this section it speaks --

MR. LYNCH: Currently there's the driveway that comes here. There's an existing low spot. All the drainage currently comes down here naturally and stays down here and is infiltrated into the soil. What we're proposing is not changing the hydrology of that. This area here with the grading will provide up to a twenty-five year storm. What we're proposing to do is insert or construct a weir, basically, to go across the street so -- across the existing driveway. Anything above a twenty-five year storm, which would be a hundred year storm, would discharge.

There's also another low lying area here. If you look at the report in the hundred year storm, it's a very small amount that would be discharging.

MR. HINES: They also didn't take any credit for the infiltration.

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MR. LYNCH: Correct.

MR. HINES: Normally what percolates into the soil they have to take a credit. It's more of a conservative design. Currently it all percolates through the soil.

MS. LANZETTA: What type of vehicles will be using the parking lot?

MR. HINES: It's only designed for passenger cars.

MR. LYNCH: Passenger cars and smaller trucks. There will be an overhead door there but it will be smaller box trucks. It wouldn't be large semi-trucks.

MS. LANZETTA: So the possibility of using permeable pavement for a large portion of that, is that a good possibility?

MR. LYNCH: I can run it past the owners. I know it does get expensive very quickly.

MR. CLARK: When safety gets involved --

MS. LANZETTA: It's to be cars, not trucks.

MR. CLARK: But if you're dealing with

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KEDEM WINERY

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freight, you get into food safety issues and they really want no dust. They want a no dust situation. That comes from FDA.

MS. LANZETTA: If you have pavement, that doesn't --

MR. HINES: One of the difficulties with that is the smaller traffic, as he said it's very expensive. You don't mix that stuff in small batches.

CHAIRMAN TRUNCALI: What is proposed for that area?

MR. LYNCH: It will be standard asphalt pavement.

CHAIRMAN TRUNCALI: So we're not ready to go to public hearing?

MR. HINES: I think you have other agencies to weigh in and you're not going to have it by the 8th. Maybe by your second meeting in September. You can set the public hearing for the first meeting in October.

CHAIRMAN TRUNCALI: I think we should also check with the building inspector, code enforcement officer on the existing house and see what the status is.

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MR. LYNCH: You said we'll come to the meeting in October and then set the public --

MR. HINES: I think you'll come to the meeting in September and set the public hearing in October. Either one of those September meetings, if you can chase down the other agencies, County Health and DOT.

MR. LYNCH: That was circulated by the Planning Department?

MS. NATLAND: For the notices you mean?

MR. HINES: For the County Planning. You'll send it to DOT.

MR. LYNCH: Usually it comes from the lead agency. It would have to come from a lead agent and --

MS. LANZETTA: Do we have enough to declare lead agency?

MR. HINES: It's to do that tonight as well.

CHAIRMAN TRUNCALI: Tonight we should do that. Yeah.

MR. BLASS: The resolution would be a declaration of intent to be lead agency.

CHAIRMAN TRUNCALI: Do I have a motion

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that the Marlborough Planning Board has the
intent to be lead agency on this project?

MS. LANZETTA: I'll make that motion.

CHAIRMAN TRUNCALI: A second?

MR. CLARK: Second.

CHAIRMAN TRUNCALI: All in favor?

MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. CLARK: Aye.

MR. CAUCHI: Aye.

CHAIRMAN TRUNCALI: Aye.

Opposed?

(No response.)

CHAIRMAN TRUNCALI: So carried.

MR. LYNCH: The two additional
comments, you need two more copies --

MS. NATLAND: Yes.

MR. LYNCH: Okay.

(Time noted: 8:05 p.m.)

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

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: September 7, 2015

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

----- X
In the Matter of

SANTINI/BIZZY BEARS

Project No. 15-8009
1613 Route 9W
Section 103.3; Block 4; Lot 19

----- X

SKETCH - SITE PLAN

Date: August 17, 2015
Time: 8:05 p.m.
Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

BOARD MEMBERS: JOEL TRUNCALI, Chairman
BEN TRAPANI
CINDY LANZETTA
STEVEN CLARK
EMANUEL CAUCHI

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
KATHI NATLAND
HOWARD BAKER

APPLICANT'S REPRESENTATIVE: STEVEN SANTINI
SHAWN HARBECK

----- X

MICHELLE L. CONERO
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CHAIRMAN TRUNCALI: Santini.

State your names for the --

MR. SANTINI: Steven Santini, owner.

MR. HARBECK: Shawn Harbeck,
H-A-R-B-E-C-K.

CHAIRMAN TRUNCALI: Would you like to go over your business and tell us what you're doing there?

MR. SANTINI: Sure. I own a landscaping business and we hold our mulches and river stone in the back part of the property. In the front part of the property inside we'll stock trucks and in the back of the building we'll do our soils and products like that. We have two offices downstairs and one apartment upstairs. The northern part of the building will be Shawn from Bizzy Bears. He can explain.

MR. HARBECK: Within the building we're renting the last bay. We're going to do small engine repairs which consists of weed whackers, lawnmowers, ride-on mowers pretty much would be the largest thing we would do inhouse. Within that we have one office and two small parts rooms within the building.

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During the day we have, you know, some mowers that go outside but at night everything is pushed into my bay. Nothing is left out overnight. If we leave everything, you know, is put inside. There's always somebody there during our operation hours.

MR. SANTINI: Nothing is going to change physically with the buildings. We're not asking for any --

MR. HARBECK: Property variances.

MR. SANTINI: We're not asking for any changing of any buildings.

MR. HARBECK: We're not changing the color, the structure, no nothing. We're using the building as it stands.

CHAIRMAN TRUNCALI: Is tonight just a meeting to go over everything? Have they submitted all their documentation?

MR. HINES: I received the application packet. What it's lacking is the site plan consistent with the site plan application checklist. We don't have a map, we don't have a survey. The project is located on the State highway, so DOT involvement is required. So is

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County Planning, similar to what we just spoke about.

We're suggesting a site plan in compliance with the site plan checklist be prepared identifying all the uses that we've just heard on the site. It sounds like it's going to be two businesses operating out of there, there's going to be some outdoor storage which needs to comply with the Town's outdoor storage regulations with opaque screening or landscaping materials.

The plans should identify the intensity of the use, the amount of each of the products that are to be stored outside, number of vehicles, hours of operation, how the two businesses are going to exist on the site.

I will say DOT may take exception, when they review the plan, to the open access. Currently there's no controlled access to the site. It's kind of you drive in any which way. There's no curbing or anything. That's going to be in their jurisdiction.

The building department has identified a comment regarding the apartment that was

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mentioned is a not permitted use in that zone currently. There may be, if the applicant wishes to take advantage of the new HD, the highway commercial overlay zone, that would take an application to the Town Board after they develop their site plan. They can look at that part of the zoning versus the HD zone that I believe they're in to see if there's any benefit to taking advantage of that. That process can go before the Town Board.

MS. LANZETTA: I'm confused. Are they in the HD?

MR. HINES: I'm not sure.

MR. SANTINI: Nobody really knows.

MR. BAKER: Can I speak, Joel? Can I speak?

CHAIRMAN TRUNCALI: What was that, Howard?

MR. BAKER: Is it okay for me to speak?

CHAIRMAN TRUNCALI: Yes.

MR. BAKER: My knowledge is based on our work on the Town Board to change the zoning laws for this business corridor. This is really the first test case where it's either R-1 or

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RAG-1. I believe your lot is one of those. In this case we can't float the HD Zone on top of your property so that it comes compliant with the HD -- whatever the HD requirements are. So I don't believe it's HD now. That's why we're floating the HD zone on top of it, to allow him to do this business, because prior to this you wouldn't be able to do it at all. The gentleman that was there before you, my understanding is he was grandfathered prior to zoning. So this is really our first test case, you and another applicant, and --

MR. SANTINI: I have one question.

MS. LANZETTA: What we're running into here, this has been an issue. We've had the issue with Empire. According to the new regulations there is a checklist --

MR. BAKER: Yes, there is.

MS. LANZETTA: -- that the applicant is supposed to complete --

MR. BAKER: Yes.

MS. LANZETTA: -- and present to the Town Board, --

MR. BAKER: Yes.

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MS. LANZETTA: -- and then when the Town Board acknowledges that that is a completed application, then they give -- I would assume it should be in writing. They will give the Planning Board the opportunity to do the site plan review. This isn't quite how it's been turning out. We've been having the applicants come to us and we don't have complete applications and we don't have any acknowledgement from the Town Board that we should be reviewing it.

MR. BAKER: You're absolutely right. We went over this with Steve at our Town Board meeting a couple of meetings ago. I think Steve knows this is a requirement from the Town Board because if you read the law, yes, the Town Board has to receive this long checklist before we can say okay, go to the Planning Board. I mean in our, you know, view it's not going to be as detailed as the Planning Board but we have to have some idea of what's going on here. So yes, we haven't received that.

MR. HINES: The Town Board has to -- one of the concerns that we have is as you apply

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the HD Zoning requirements, residential uses are not permitted in the HD Zone, which is similar to the previous application we had this discussion on it was an issue. So there may be a requirement for that zoning being anchored in and the zoning variance on top of that.

MR. BAKER: One step at a time.

MR. SANTINI: So coming back to the meeting. Like I was told, ask the questions. In that application that we filled out, I think there's 41 or 42 things on there. As Mr. Osborn had stated to me, there may be some things that are going to have to be done and some things that are going to be waived. That's what we need to know, what's going to be waived, what has to get done. They can't answer it. Someone has to.

MR. HARBECK: We were told to hand in the --

MR. SANTINI: Hand it in and ask the questions.

MR. HARBECK: Turn everything in and come see the Zoning Board.

MR. SANTINI: They already gave me the overlay of the HD. That's been done.

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MR. BAKER: I think what we are asking is --

MR. HINES: Who has given you that? The Town Board granted that?

MR. BAKER: Not officially granted that.

MR. SANTINI: Oh, yes. The first meeting you guys granted it.

MR. BAKER: I think we made a mistake.

MR. SANTINI: Mistake or not, it was granted.

MR. BAKER: As I said, you were the first test case and we're trying to work with you to make this happen, but, you know, we certainly have requirements. One is a basic site plan which --

MR. SANTINI: Basic or the 41 things that we're talking about? The first time I came in you said -- you guys all said, standing up there, that there's going to be some things that we have to do and there's going to be some things that we don't have to do. At this point I need to know what I need to do and what I don't have to do.

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MS. LANZETTA: I think you have to go back to Section 155. It's actually less items than we have in our requirements but those are the minimal requirements that you guys need before you can send it to us.

MR. BAKER: Yes, there's a long list. Most of those are a typical site plan.

MR. SANTINI: But that goes for new buildings, existing, non -- you know, like Empire. So it's residential asking to be a commercial property. All I'm asking is to operate a commercial business out of a commercial property.

MR. BAKER: All we're asking is for you to provide us a site plan review.

MR. SANTINI: Perfect. Make it to what has to get done for an existing --

MR. BAKER: It's in the law. You know, it's right there. It's -- I'm not sure --

MR. SANTINI: So I have to do everything that a new building has to do?

MR. BAKER: Unless we change our law, I'm afraid so. That's my interpretation.

Ron, do you have anything additional?

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MR. BLASS: Right now it's either in an R1 Zone or Ag Zone.

MR. BAKER: Well, what he's referring to is if you look at -- I apologize for this. This is the list that we put together, which is a typical site plan review list of things that you need on your map. Yes, it's a long list but a lot of these are, you know, name of the person of the firm preparing the plan, the date --

MR. HINES: A survey.

MR. BAKER: There's a lot of stuff here we can say it doesn't comply.

MR. SANTINI: That's what I would need to know. To go forward I would need to know what is going to apply.

MR. BAKER: I think we need everything that's here. That would be my stance. That's the law.

MR. SANTINI: So we need a hundred year study when we're not changing anything? It's in the Planning Board -- the application. You need to see it again?

MR. BLASS: What's the point?

MR. SANTINI: So I have to do the

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hundred year flood study?

MR. HINES: It's probably on the list to show any flood planes. I'm not looking at the list.

MR. SANTINI: There is several different things on there. I think the list needs to get updated. It's too broad. It's too broad of a list.

MR. BAKER: It's a brand new list. I don't see anything about a hundred year flood plane. It's typical boilerplate site plan stuff in my opinion.

Ron, you wrote it.

MR. BLASS: I think that -- the starting point for discussion purposes, I believe, is the fact that this is a residential zone or an Ag residential zone, and the use that we're talking about is not allowable at all until and unless we applied this section of law which gives the Town Board the authority to make it a possibly permissible use.

MR. SANTINI: That's already been done.

MR. BLASS: You said that. I'm sort of processing that. That couldn't happen the way

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the law is written without a public hearing and without a legislative act by the Town Board. I don't think that that probably occurred.

MR. BAKER: Steve, what we told you at the last Town Board meeting was we probably were eager to make this happen and we probably didn't follow all the letters of the law here. We need you to do that. We gave you ninety days to come back and do that.

MR. SANTINI: They gave me ninety days to come in front of the Planning Board.

MR. BAKER: We gave you ninety days --

MR. HARBECK: It was to go to the Planning Board. I was there.

MR. BAKER: I think we told you to go to the Planning Board and get some information and discuss it with them, but --

MR. SANTINI: You told me I had to submit --

MR. BAKER: Regardless of whether you go to the Planning Board or the Town Board, you're going to have to have the site plan information.

MR. SANTINI: We know exactly for what

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SANTINI/BIZZY BEARS

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my situation is --

CHAIRMAN TRUNCALI: You have to hire a surveyor to draw up --

MR. SANTINI: So you're saying I have to do everything on that list?

MR. BAKER: I think the surveyor is --

MR. SANTINI: Any business that -- I don't know. When is this overlay, when did it start?

MR. BAKER: It went into effect last year, 2014.

MR. SANTINI: So any business from '88 or '80 until now had to go through this?

MR. BLASS: No. Not at all. This is a special law that allows -- are you going to let me finish?

MR. SANTINI: Yeah.

MR. BLASS: This is a special law that allows for an exception to the rules that generally prevail today. So if you were in a residential zone or an agricultural zone, one or the other, the use, the activity, the project that you're presenting is not allowable. So this law was enacted in the fall of 2014 to create a

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window for the Town Board, if it was so convinced, to allow your sort of activity to occur. So you really have to -- that's the context. So you're really the first or second -- you're the only application that I'm personally aware of under this new law which was written for the benefit of properties in your situation. So because it was written for your benefit, that's the good news. The bad news, if you think it's bad news, is you have to follow the process in the law in order to get the relief that the law potentially makes available to you. So it's for your benefit.

MR. BAKER: It's standard stuff.

MR. SANTINI: Can I see the site plan?

CHAIRMAN TRUNCALI: I think what Ron is trying to say --

MR. BLASS: Do you want to go down the list and tell me what you don't want to do?

MR. SANTINI: I'm not saying I don't want to do anything. When we went in front of the Board they said there's going to be certain things we have to do. I want to know what those are --

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MR. BAKER: Right there.

MR. SANTINI: -- that I don't have to do.

MR. BAKER: I don't think there's anything.

MR. SANTINI: Maybe the application is different from that. Maybe I'm wrong.

CHAIRMAN TRUNCALI: Existing buildings with existing businesses are grandfathered in until they're sold and changed, changed hands and then a new business goes in there, then they have to comply to these new regulations.

MR. SANTINI: So back in '88 when they went for a commercial permit, it wasn't considered commercial back then? What changed the zoning, though?

MR. BAKER: Steve, the zoning has been in place since the '70s. I'm not sure if that was a change from RAG-1. It's either R-1 or RAG-1 right now. What you're proposing to do --

MR. SANTINI: What is RAG?

MR. BLASS: It's a zoning district.

MR. SANTINI: You can't run anything commercial in RA?

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CHAIRMAN TRUNCALI: It's residential agricultural one acre zoning.

MR. BAKER: Not really. That's why -- no, you couldn't do what you want to do now in that zone.

MR. SANTINI: So the property is virtually useless?

MR. BAKER: No, it's not, because we're floating an HD on top of it so you can --

MR. SANTINI: You told me it's got to go to a hearing or something.

MR. BAKER: Of course. Yes. We're not going to just -- yes, there is a certain set of rules that we have to go by here. Somebody wants to do something, we're trying to open things up so we can have more development along 9W, but it has to be approved by the Town, it has to be approved by the Planning Board. Unfortunately some of these steps you have to go through and it costs money. I understand that. Nobody likes to spend money. That's --

MR. SANTINI: It's not appetizing for a small business.

MR. BAKER: Well, the alternative

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Steve --

MR. SANTINI: Places are going to be closed up.

MR. BLASS: That doesn't make any sense.

MR. SANTINI: Go from 84 to my shop door and there's fifty-one places closed up.

MR. BLASS: This is a law which was written for your potential benefit to open up business opportunities, and so that's the good news. The bad news, if you want to deem it bad news, is you have to follow the procedure to get the benefit of the law. You're not -- it's not zoned -- the property is not zoned in the Ag district or in the R-1 district for the activity that you want to engage in. So this is a way -- in October of 2014 there was no way for you to do what you wanted to do. As of November 2014 there is a way and this is it. So I would approach it from the standpoint of there is a list of things that you need to do. Which of those are you saying you don't want to do or can't do or it's impractical to do? Do you know what they are?

MR. SANTINI: I'd have to go through

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it. I didn't memorize it.

MR. BLASS: I think that as the property owner --

MR. SANTINI: I'm not the property owner.

MR. BLASS: As the party of interest, the burden is on the property owner or the people that want to use the property to do that. The burden is not on the Town to say you don't have to do something when it's already done something which opens up the opportunity to do something in the first place.

MR. BAKER: Steve, we want to make this work but we can't -- I agree, we probably jumped the gun a little bit when you first met with us. You have to give careful consideration and look at the code. We have to require that you do some of these things. I'm speaking for the rest of the Board Members. I think we all feel the same way, the Town Board. I'm not speaking for the Planning Board. The way it's written, the Town Board, yes, says okay this looks good, go ahead and go to the Planning Board, let them review it, they come back and make a recommendation to the

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Town Board and the Town Board I think okays it, and it could be subject to a public hearing at that point. It seems like a lot of hoops you have to jump through, and I'm sorry for that, but as Ron said, had we not done this you wouldn't be able to have this business at all because of the change in use from the other guy. It's my understanding it preceded zoning.

MR. SANTINI: I don't see how it was a gas station at one time. It doesn't get any more commercial than a gas station. Now we're asking for a landscape company. It's a lot less industrial than the two of those.

MR. BAKER: That was pre-zoning when it was a gas station. I barely remember that.

MR. SANTINI: Businesses were doing better than they are now.

MR. BAKER: We're not trying to kill businesses. We're trying to do the exact opposite. That's what this law -- maybe we need to make some changes.

MR. SANTINI: I think you guys have to make some big changes.

MR. BAKER: I understand your feelings

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on that, but --

MR. HARBECK: Is there anywhere we can get a copy of that so we know exactly what we have to do, --

MR. BAKER: Absolutely.

MR. HARBECK: -- so this way we can look it over and see if it's --

MR. BLASS: It's in the Town code book.

MR. SANTINI: It's not in the application packet?

MR. HINES: The Zoning Code is not.

MR. BAKER: We can get you a copy of this.

MR. HARBECK: That's different.

MR. BAKER: We're not trying to make this hard for you but on the other hand there are certain things that we require. We require and it's what every town is going to require I believe. It's not anything unique to Marlborough. Am I right?

MR. BLASS: Yeah. Well, without the law that we're talking about we wouldn't be having this conversation tonight. It wouldn't exist. So again, the opportunity has been

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provided. It's just that your -- I think -- I don't want to put words in your mouth but I'm thinking you're saying in your opinion it's not enough of an opportunity, it's not good enough. Well, okay. So you're entitled to that opinion. You're entitled to express that opinion. You're telling the Town Councilman this evening what your opinion is. You know, you probably would tell the entire Town Board what your opinion is if the Town Board was here. If you want to develop that further as to what your precise significant specific objections are for the Town Board to take a look at, be our guest. Right now there's a process here to follow, and if you're looking to -- if you're looking for a copy of the process, you can get that from the town hall. No problem. If you're looking to change the process and you have an opinion in that regard, then I think you should put it in writing and share it with anyone in the Town.

MR. SANTINI: So our next thing is to go back in front of them?

MR. BAKER: Yes. With the site plan.

MR. HINES: The next thing is to get a

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copy -- like Ron just said, a copy of the regulation and develop a plan in compliance with that and present it to the Town Board. The Town Board will refer it to the Planning Board, my understanding, the Planning Board will provide comments, opinions --

MR. BLASS: Feedback.

MR. HINES: -- back to the Town Board.

Also you need to know that during the process there's going to be a State Environmental Quality Review which requires other agencies to weigh in on this, the DOT -- because of the property frontage, DOT may or may not have concerns about the existing access or intensity of use you propose. County Planning has a list of things that they look for when they review projects that are on State highways -- within 500 feet of a State highway, municipal boundary. Because of the proximity of your property to the State highway, it also needs a referral to that board who provides advice, either mandatory changes or advisory comments, to the Planning Board.

MR. SANTINI: Is that something we can get now to see what they are going to need?

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MR. HINES: What they're going to need is everything on that list. They look at the site plan, typically the landscaping and traffic issues. Similar to what the Planning Board does. They look at it for more regional impacts rather than this Board looking at the local impacts. The County Board looks at intermunicipal and regional impacts. They may have none or they may have concerns. They may just give this Board advice. Sometimes they weigh in and say there should be more landscaping or you should look at lighting or take a better look at the drainage. They can give you mandatory comments which require changes or a supermajority overruling by this Board. The best advice I can give you is talk to one of the local design professionals. I know you talked to somebody because I got a call from one of them seeking the same information you're objecting to right now. That's probably your streamline way to do it is to get some assistance from a local engineering or survey company that can put this together for you, and it will go a long way to moving it forward. They know. As the Town Councilman said, a lot of

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things every design professional includes as a matter of course, who the title block is on there, the roads, the metes and bounds. It's stuff any surveyor is going to put on a map. It looks like a litany of items. It's the menu you get when you hire a design professional.

CHAIRMAN TRUNCALI: Albert, do you have something to say? State your name.

MR. ALBERT SANTINI: Albert Santini. My question to the Board is isn't some of this responsibility supposed to be incurred by the actual property owner? I mean being a tenant at this point on a two-year lease, why we have to incur the cost of a hundred year flood study, have to worry about landscaping, have to worry about curb cuts. We have to worry about all of these issues that should be addressed to the actual property owner at this point in time. Now, when he becomes property owner, if he wishes to do so, based upon his agreement with that property owner currently, then it would be his obligation to either compensate that individual for his expenses or continue on if there's some sort of precedent that says no, because it was

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grandfathered in, the current property owner doesn't have to use it. It's only a lease situation. Once this individual does take ownership, then he's required to meet those mandates.

CHAIRMAN TRUNCALI: I think you -- he may need the owner -- the actual owner of the property to sign that he can actually do this.

MR. BLASS: The owner is going to have to consent to somebody else pursuing the application for the owner's property.

MR. ALBERT SANTINI: I think that was in the application.

MR. BLASS: The owner would have to sign that or it wouldn't go anywhere.

MR. HINES: That's a negotiation with your landlord and you. It should have occurred before you moved in.

MR. SANTINI: We knew it as a commercial building.

CHAIRMAN TRUNCALI: State your name.

MS. SANTINI: Kerry Santini. If the property is only being leased as it's not changing ownership, why does the grandfather

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SANTINI/BIZZY BEARS

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practice go away? There's no change of ownership so shouldn't it still be grandfathered in?

CHAIRMAN TRUNCALI: It's a new use, a change.

MR. BAKER: That use is not allowed in either R-1 or RAG-1. That's why we float the HD.

MR. SANTINI: So if I decide to put a gas station back in there, I can do it at any time?

MR. HINES: No. The only thing you can do in there is agricultural use, nurseries, greenhouses.

MR. SANTINI: I can't put another well company in there?

MR. HINES: Not if they've been gone for a year.

MR. SANTINI: Nope.

MR. HINES: If they haven't been gone for a year than their grandfathering still exists.

MR. BLASS: Is this an application for a well drilling permit?

MR. BAKER: Landscaping.

MR. SANTINI: I'm just trying to get an

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idea here.

MS. LANZETTA: I want to remind everybody that we have another application that's in a similar situation and they came before us and we weren't able to really give them satisfaction until they returned to the Town Board to get that direction from you. So it is real important that we get the system down so we don't frustrate applicants bouncing back and forth between Boards.

MR. BAKER: I can tell you that other applicant, I don't know if he showed you his site plan but it's pretty much in order.

MS. LANZETTA: We still need that direction from you because technically, legally it's not allowed.

MR. BAKER: From the Town Board's perspective we're trying to make these things work and trying to address some inadequacies we had in our zoning laws in the past. Really what we've done here with this floating zone is something that was recommended by the Ulster County Planning Board. I don't think they're going to have a lot of issues with what you're

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SANTINI/BIZZY BEARS

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trying to do. The DOT, I can't speak for them.

MR. SANTINI: So the right hand doesn't talk to the left hand?

MR. BAKER: We try.

MR. SANTINI: It doesn't work. You're saying a mistake you made. So the right hand is not talking to the left hand.

MR. BAKER: We can do better. We're not perfect. We're just regular people like everybody else.

MS. LANZETTA: I have to say I appreciate having you here, Howard. In the past we haven't been able to express this with the Board. I respect the fact that you're here.

MR. BAKER: You were our trial. You were our test. You and the other applicant are the first two that had come before us with this change. So yeah, there are some rough spots.

MR. SANTINI: So anything that goes vacant goes back to agricultural?

MR. BAKER: No.

MR. SANTINI: What made the ethics of property agricultural?

MR. HINES: It's zoned that way.

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MR. SANTINI: It was a gas station. It was a gas station. You can't get any more commercial than a gas station. Come on.

MR. HINES: At some point it was zoned --

MR. SANTINI: Maybe it was zoned incorrectly. We need to go back in the archives.

MR. HINES: That's not the case. At some point the zoning was changed. At some point the zoning along that corridor was changed to -- there's R zones toward the hamlet, there was more sewer. There's the RAG and the AG zones along 9W.

MR. ALBERT SANTINI: Is there a format that he can obtain to show the process that occurs between the Planning Board and this Board?

MR. HINES: The regulations tell you that.

MR. BLASS: In other words, if I had a photocopy machine I'd copy it right now. I don't have one in my back pocket.

MR. ALBERT SANTINI: I don't expect you to have it with you this evening. Is it something that's available to him?

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MR. CLARK: Is that available
digitally?

MR. BAKER: I don't think so. We can
get it out in the mail tomorrow.

MR. ALBERT SANTINI: This way we can
have a better idea whether the cart or horse
comes first.

MR. BAKER: I totally agree.

MR. ALBERT SANTINI: As it seems to me
as an observer at this point, I don't think you
know where --

MR. BLASS: I know exactly.

MR. ALBERT SANTINI: Then I need to
know, he needs to know, because even that
individual up there, that young lady, she seemed
confused as to what comes first, what comes last.
If there's some format that we can receive so we
can make a decision based upon that so it's not
-- we're not looking to make an exception.

MR. BLASS: It's all written out.

MR. ALBERT SANTINI: He needs to know
what he needs to do.

MR. BLASS: I could flip it around and
say why don't you guys have a copy of it. It's

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in the town code book. You know, it's right there.

MR. ALBERT SANTINI: That's why we came to you. We're not aware of what's available to us. You're the instrument to let us know what is available.

MR. BLASS: We did that tonight.

MR. ALBERT SANTINI: I appreciate that greatly. Thank you very much.

MR. BAKER: We'll definitely get it to you tomorrow.

MR. SANTINI: How come we haven't gotten it already?

MR. BAKER: Have you asked for it?

MR. SANTINI: Okay.

CHAIRMAN TRUNCALI: You know what to do? Here's a copy of Pat's comments. You can take those.

MR. SANTINI: I have that.

That's it?

CHAIRMAN TRUNCALI: That's it.

(Time noted: 8:38 p.m.)

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

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: September 7, 2015