

TOWN OF CORTLANDT  
PLANNING AND ZONING BOARDS

BOARD MEETING

Town Hall  
1 Heady Street  
Cortlandt Manor, NY, 10567  
May 3, 2022  
7:00 p.m. - 8:23 p.m.

May 3, 2022

MEMBERS PRESENT:

Loretta Taylor, Chairperson

Thomas A. Bianchi, Vice-Chairperson

Suzanne Decker, Member

Robert Foley, Member

Steve Kessler, Member

George Kimmerling, Member

Jeff Rothfeder, Member

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2 (The board meeting commenced at 7:00 p.m.)

3 MULTIPLE: I pledge of allegiance to the  
4 flag of the United States of America and to the  
5 republic for which it stands, one nation under  
6 God, indivisible, with liberty and justice for  
7 all.

8 MR. CHRIS KEHOE: Mr. Kimmerling?

9 MR. GEORGE KIMMERLING: Here.

10 MR. KEHOE: Mr. Rothfeder?

11 MR. JEFF ROTHFEDER: Here.

12 MR. KEHOE: Mr. Kessler?

13 MR. STEVE KESSLER: Here.

14 MR. KEHOE: Ms. Taylor?

15 MS. LORETTA TAYLOR: Here.

16 MR. KEHOE: Mr. Bianchi?

17 MR. THOMAS BIANCHI: Here.

18 MR. KEHOE: Mr. Deckor, or Ms. Decker,  
19 I'm sorry.

20 MS. SUZANNE DECKER: Here.

21 MR. KEHOE: I'm getting feedback. Mr.  
22 Foley?

23 MR. ROBERT FOLEY: Here.

24 MS. TAYLOR: Okay. We have one change to

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2 the agenda tonight and that is PB 2020-10 will be  
3 adjourned to the June meeting per the applicant.  
4 Can I have a --

5 MR. KESSLER: Motion to adjourn 2020-10  
6 to the June meeting as per the applicant's  
7 request.

8 MS. TAYLOR: Thank you.

9 MR. BIANCHI: Second.

10 MS. TAYLOR: Thank you. On the question,  
11 all in favor?

12 MULTIPLE: Aye.

13 MS. TAYLOR: Opposed? Fine, thank you.  
14 Alright. The, do we have the minutes for --

15 MR. KEHOE: Yes, the minutes are part of  
16 the Google Drive.

17 MS. TAYLOR: Okay. So we'll have the  
18 adoption of the minutes of April 5th.

19 MR. ROTHFEDER: So moved.

20 MS. TAYLOR: Thank you.

21 MR. KESSLER: Second.

22 MS. TAYLOR: Thank you. On the question?

23 MR. FOLEY: I'm okay.

24 MS. TAYLOR: Alright. Okay. We know

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2 we're doing well when Bob has no problems.

3 MR. FOLEY: I'm only reading my  
4 comments, not the whole Board's.

5 MS. TAYLOR: Okay. Well, anyway, On the  
6 question, all in -- did I say all in favor? I  
7 forgot what I was --

8 MR. KESSLER: No.

9 MS. TAYLOR: All in favor?

10 MULTIPLE: Aye.

11 MS. TAYLOR: Opposed? Very good. Okay.  
12 Alright The first item under correspondence is a  
13 letter dated April 12, 2022 from Brad Schwartz,  
14 Esquire, requesting the 22nd 90-day time  
15 extension of final plat approval for the Mill  
16 Court Crossing subdivision located at the south  
17 end of Mill Court.

18 MR. KESSLER: Madam Chair, I move that  
19 we adopt Resolution 6-22 approving the time  
20 extension.

21 MS. TAYLOR: Alright.

22 MR. BIANCHI: Second.

23 MS. TAYLOR: Thank you. On the question?

24 MR. FOLEY: On the question, I will be

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2 voting no again to be consistent. You say there's  
3 progress being made, but I'll still be a no vote  
4 on the 22nd extension.

5 MS. TAYLOR: Okay. I don't understand  
6 what you said. You said you see --

7 MR. FOLEY: I'm going to be a no.

8 MS. TAYLOR: -- there's progress being  
9 made but you're voting to vote no?

10 MR. FOLEY: Apparently, we're being told  
11 there's progress.

12 MS. TAYLOR: Okay. Whatever. Okay. Very  
13 good. So, all in favor?

14 MULTIPLE: Aye.

15 MS. TAYLOR: Opposed?

16 MR. FOLEY: No.

17 MR. KEHOE: Mr. Kimmerling?

18 MR. KIMMERLING: Yes.

19 MR. KEHOE: Mr. Rothfeder?

20 MR. ROTHFEDER: Aye.

21 MR. KEHOE: Mr. Kessler?

22 MR. KESSLER: Aye.

23 MR. KEHOE: Ms. Taylor?

24 MS. TAYLOR: Aye.

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2 MR. KEHOE: Mr. Bianchi?

3 MR. BIANCHI: Aye.

4 MR. KEHOE: Ms. Decker?

5 MS. DECKER: Yeah.

6 MR. KEHOE: Mr. Foley?

7 MR. FOLEY: No.

8 MR. KEHOE: The motion carries six to  
9 one.

10 MR. BRAD SCHWARTZ: Thank you.

11 MS. TAYLOR: You're welcome. Alright,  
12 next item, PLANNING BOARD 16-99 a report dated  
13 April 13, 2022 from WSP regarding the Hollow  
14 Brook Golf Club 2021 annual water monitoring  
15 report and a letter dated April 13, 2022 from  
16 Eugene Peterson, Manager, Hollow Brook Gold Club  
17 requesting modifications to the required testing  
18 protocol. Okay.

19 MR. EUGENE PETERSON: I listened to what  
20 Chris had said during --

21 MR. KEHOE: If you would just introduce  
22 yourself.

23 MR. PETERSON: Eugene Peterson, club  
24 manager at Hollow Brook. I heard what Chris had

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2 said during the work session and I guess the  
3 letter is really kind of asking for two requests  
4 tonight. Back in the beginning of COVID, we had  
5 requested a monitoring change and WSP and the  
6 town approved it for '20 and '21 and we're asking  
7 for that to continue now into this year, as we  
8 move into them coming in to do their first  
9 protocol, testing in probably about six or eight  
10 weeks. And then part two of that would be like  
11 some additional changes as well, like we would  
12 content with more specifics at the next meeting.  
13 Chris, I think I got that right?

14 MR. KEHOE: Okay. And just the reasons  
15 for the changes are?

16 MR. PETERSON: Well, we had made the  
17 request in the beginning of COVID kind of based  
18 on what we anticipated to be the costs and the  
19 town and WSP came back with modifications that we  
20 had requested over the years to try to alleviate  
21 some of the taxes that it costs us to do it. And  
22 between Michael and WSP, they came up with just a  
23 slight reduction in the monitoring for the past  
24 two years. And we're asking to continue that



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2 program that was good for the past two years into  
3 year three. And then coming back with some other  
4 changes.

5 MR. KESSLER: Exactly what was the  
6 reduction? Reduction in the number of things you  
7 test for?

8 MR. PETERSON: They -- not the chemicals  
9 that we test for. It was basically they  
10 eliminated sampling points on both the summer and  
11 the fall tests and that basically gave us a cost  
12 reduction of in the range of about \$8,000 to  
13 \$10,000 per test. And there's multiple wells on  
14 the property and they chose the wells that they  
15 felt to be the most important and since the club  
16 has opened and for the past two years, there has  
17 been not one time one detection in the Hollow  
18 Brook.

19 And that continued for the last two  
20 years. I had spoken to Michael about this and  
21 Michael had referred me to basically kind of to  
22 take this approach with coming here and asking to  
23 continue for the third year with what we consider  
24 the COVID protocols for the monitoring program.

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2 And WSP wrote the program and obviously we agreed  
3 to it and I'm asking for a third year on that.

4 MS. TAYLOR: I don't have any problem  
5 with that.

6 MR. FOLEY: Okay.

7 MR. KEHOE: Right, so we need, we need  
8 to hear from WSP and we'll get them either here  
9 or on Zoom for the next meeting. And prior to  
10 that meeting, they'll have a written report.

11 MR. FOLEY: A motion would be just --

12 MR. KEHOE: To refer it back.

13 MR. FOLEY: -- just refer it back, okay.  
14 There's no resolution, right, in this? I make a  
15 motion we refer this back.

16 MS. TAYLOR: Please, yes.

17 MR. ROTHFEDER: Second.

18 MS. TAYLOR: Alrightie, On the question?

19 MR. KESSLER: Just on the question and  
20 our consultant will also be part of that?

21 MR. KEHOE: Yes, our consultant, WSP,  
22 will --

23 MR. KESSLER: Oh, they are our  
24 consultant?

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2 MR. KEHOE: Yeah, they're ours, yeah.

3 MR. KESSLER: Okay.

4 MS. TAYLOR: Alright. All in favor?

5 MULTIPLE: Aye.

6 MS. TAYLOR: Opposed? Alright.

7 MR. PETERSON: Thank you.

8 MS. TAYLOR: Okay. Alright. The next  
9 item is a new public hearing for PB 2022 --

10 MR. KEHOE: Loretta, Alan is yelling out  
11 of the back, sorry.

12 MS. TAYLOR: I'm sorry, Alan. Okay. I  
13 think it's on, I don't think it's off.

14 MR. ROTHFEDER: It's on.

15 MS. TAYLOR: The public hearing for the  
16 application for James Connolly for preliminary  
17 and final subdivision approval for a two-lot  
18 minor subdivision of an approximately 1.49 acre  
19 parcel of property, located at 49 Dutch Street.  
20 Latest revised drawings are dated March 21, 2022.

21 MR. KEITH STAUDOHAR: Good evening, this  
22 is Keith Staudohar with Cronin Engineering, we're  
23 representing the applicant Connolly and with me  
24 tonight is the Connolly's attorney.

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2 MR. STEVEN WALDINGER: Good evening,  
3 Steven Waldinger of Shapiro, Gettinger, Waldinger  
4 and Monteleone, representing the applicant as  
5 well.

6 MR. STAUDOCHAR: Alright. So, this is a  
7 two-lot minor subdivision off of Dutch Street,  
8 more particularly, 49 Dutch Street, which is 1.49  
9 acres in size. We're looking to chop off one lot  
10 so each lot will be about 30,000 square feet in a  
11 15,000 square foot zoning district. We've  
12 performed soils testing the sites with the health  
13 department, so we know we have an approvable  
14 septic area.

15 The new lot will access off of Sycamore.  
16 The lot itself has a rise of about ten feet from  
17 Sycamore up to the level of the house. But the  
18 lot once you get up there is flat. There's only  
19 two trees to be removed. There are no wetlands.  
20 As you guys, the members that were out there this  
21 Sunday saw pretty straightforward. We know that  
22 the neighbors have retained an attorney and an  
23 engineer. We have received recently comments,  
24 those memos that were presented to the board, so

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2 at this point, we might as well just open it up  
3 to the public, unless the board has any  
4 questions.

5 MS. TAYLOR: Do we have any questions at  
6 this point? We will wait --

7 MR. KESSLER: Yeah, let's wait.

8 MS. TAYLOR: -- until after the audience  
9 goes. This is a public hearing and at this  
10 particular point, you are welcome to come up and  
11 express your views pro or con. And please  
12 remember that you need to provide your name and  
13 your address in terms of, you know, whether you  
14 live there on those roads or in that very  
15 location. And you need to be, let me see, you  
16 need to be aware of the amount of time you spend  
17 at the podium. We don't normally give you a  
18 specific number of minutes, as many other groups  
19 do, but we don't want you to be too longwinded in  
20 making your point, because other people obviously  
21 will have something to say. So yes, you may  
22 access the podium at this point.

23 MR. CLIFFORD DAVIS: Good evening, Madam  
24 Chairwoman and members of the planning board. My

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2 name is Clifford Davis. I'm an attorney and I'll  
3 give you the names of my clients. The address of  
4 my firm is 202 Mamaroneck Avenue, Third Floor,  
5 White Plains, New York 10601. I represent Brian  
6 and Stacey Retallick. They live at 5 Sycamore in  
7 Montrose, Gregory and Cynthia Martin, at 1  
8 Sycamore Court, Richard and Theresa Motko at 2  
9 Sycamore Court and Jason and Therese Sinks at 7  
10 Sycamore Court, all in Montrose. And all of these  
11 people presently reside on Sycamore Court.

12 So I submitted a letter to this board on  
13 April 20, '22. I'm not going to repeat everything  
14 in there, but I just want to make a couple of  
15 brief points. Number one, the applicant is asking  
16 to put certain utilizes on Sycamore Court.

17 Sycamore Court is privately owned. It is not  
18 owned by Mr. Connolly. And the applicant should  
19 submit some sort of title as to who owns actually  
20 Sycamore Court.

21 There are certain people who have access  
22 to ingress and egress. If you look at the deed  
23 agreement in 1961, over 60 years ago, it talks  
24 about there's a certain easement or right of way

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2 for purposes of ingress, egress and regress by  
3 foot or by vehicle.

4 Now I'm not so sure that this even  
5 applies. But to the extent that the applicant is  
6 relying on it, they don't have the right to lay  
7 down any utilities. At best, they would just have  
8 the right to go across it.

9 However, in 2012, which is also attached  
10 to my April 20th letter, which hopefully the  
11 board has and has reviewed, is the road  
12 maintenance agreement. And the road maintenance  
13 agreement came into play because there were three  
14 new subdivisions in 2013, three new houses that  
15 were created on that Sycamore Court. And as a  
16 result of that, the parties all got together,  
17 including Mr. Connolly, with regarding lot 22.  
18 And at that same time, it talked about their  
19 being one lot owned by James Connolly, it defined  
20 it. And all you have to do is you look, there's a  
21 definition in the recitals and it talks about  
22 Connolly and it's one lot.

23 Now, when you look at the agreement,  
24 what the, you know, the Road and Maintenance

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2 Agreement, this RMA, it anticipated certain  
3 subdivisions and they were in there. So these  
4 three new lots. They talked about that there were  
5 three separate new tax lots. However, it was new  
6 tax lot 23, new tax lot 24, and new tax lot 33.  
7 But there was only one lot 22. And then the  
8 parties entered into a further apportioning of  
9 how to do it, so what they want to do is they  
10 want to have lot 22 and now they want to have lot  
11 22A and they're overburdening the road when all  
12 the parties agreed as to how to use the road.

13 So essentially, I guess the board or the  
14 board's counsel will have to resolve this. But  
15 number one, they want to put utilizes in on  
16 Sycamore Court, a private road. I don't believe  
17 that they own the road and there's nothing in any  
18 easement that says they could lay utilities. It's  
19 not as if -- I'll take that back.

20 So, they can't lay utilities. There's an  
21 issue as to who owns the road. The RMA clearly  
22 anticipated subdivision with regarding those  
23 three lots, but Mr. Connolly and Mr. Connolly's  
24 counsel didn't address that at all.



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2 So we would argue that under the RMA,  
3 which is a deed agreement, it, to the extent that  
4 the easement agreement comes into play at all, it  
5 modified it, limited the rights to all of those  
6 parties and they cannot use this road and they  
7 have to -- they have to come in through a  
8 different access.

9 With me tonight is our engineer, Elliot  
10 Senor, and Elliot, if you could just address a  
11 couple of the engineering issues.

12 MR. KESSLER: Just before we go on,  
13 Chris, I don't think, when we received his  
14 letter, we received the attachments.

15 MR. KEHOE: Okay. I'll confirm that.

16 MR. KESSLER: For the RMA and the  
17 easement agreement.

18 MR. DAVIS: It was submitted. Chris, do  
19 you have them?

20 MR. FOLEY: I didn't get it either.

21 MR. MICHAEL CUNNINGHAM:

22 [unintelligible] [00:16:56] packet in the package  
23 submitted by Shapiro, Gettinger, Waldinger and  
24 Monteleone.

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2 MS. TAYLOR: Yeah.

3 MR. DAVIS: Well, when I emailed it to  
4 all the parties, I emailed it with the  
5 attachments.

6 MR. KESSLER: I'm just referring to, you  
7 know, the April 20th letter.

8 MR. DAVIS: Well, I'll tell you what the  
9 attachments are. You might have them anyway. It's  
10 the Road Maintenance Agreement.

11 MR. KESSLER: I know what they are, I  
12 mean I see what your letter says they are.

13 MR. KEHOE: The Road Maintenance  
14 Agreement provided by the applicant?

15 MR. DAVIS: Correct.

16 MR. KEHOE: Which you have in a  
17 different location.

18 MR. DAVIS: And then there's a document,  
19 it's this document, it's called an indenture from  
20 1961, which --

21 MR. KEHOE: Alright. So I'll find the  
22 1961 indenture.

23 MR. DAVIS: Right, which the applicant  
24 also provided.

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2 MR. KEHOE: But any reference to the  
3 Road Maintenance Agreement was provided by the  
4 applicant so you should have that separately from  
5 the attorney's letter.

6 MR. KESSLER: Okay. Yes, we do.

7 MR. FOLEY: You're saying we did get it?

8 MR. KESSLER: Okay I stand corrected. I  
9 have it.

10 MR. FOLEY: Oh.

11 MR. BIANCHI: It's on the March, the  
12 March 23rd letter.

13 MR. ROTHFEDER: Exactly.

14 MR. KESSLER: The March 28th letter.

15 MR. FOLEY: The previous month?

16 MR. ROTHFEDER: So, you're going, you're  
17 going -- you're the engineer, right?

18 MR. SENOR: We're neighbors.

19 MR. ROTHFEDER: You'll have to state  
20 your name.

21 MR. DAVIS: With the same client.

22 MR. ROTHFEDER: But I was just going to  
23 say, you said that building the two lots will be  
24 burdensome to the road, you described it as

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2 overburdening the road.

3 MR. DAVIS: Well, the Road Maintenance  
4 Agreement --

5 MR. KEHOE: Sorry, you need to use the  
6 mic. Sorry, he can't --

7 MR. ROTHFEDER: No, I understand.

8 MR. DAVIS: The Road Maintenance  
9 Agreement only anticipates there being one lot  
10 and --

11 MR. ROTHFEDER: No, I understand that.

12 MR. DAVIS: -- and as the deputy town  
13 attorney stated, that it only apportioned 17  
14 percent to that one lot.

15 MR. ROTHFEDER: Right.

16 MR. DAVIS: So now what they're asking  
17 is two and so what's the apportionment, and this  
18 board has no authority to rewrite an agreement  
19 between private parties. So it's --

20 MR. ROTHFEDER: Right.

21 MR. DAVIS: -- it creates quite a mess.

22 MR. ROTHFEDER: Right. I guess the thing  
23 I don't understand though is then what do your  
24 clients want? I mean they want one lot. They want

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2 to follow their Road Maintenance Agreement.

3 MR. DAVIS: We're not opposing the  
4 subdivision. What we want them is to come off of  
5 McManus?

6 MR. ROTHFEDER: Okay. That's, that's  
7 what you're requesting.

8 MR. DAVIS: To have, to have access --

9 MR. ROTHFEDER: Okay.

10 MR. DAVIS: -- off of McManus and, and  
11 they're contending that somehow there's a  
12 problem. And my engineer will explain --

13 MR. ROTHFEDER: Okay.

14 MR. DAVIS: -- that there's no issue  
15 coming in off McManus.

16 MR. KESSLER: Are you also though saying  
17 though, you mentioned that Connolly has a 17  
18 percent apportionment to that one lot. Are you  
19 saying that apportionment should change if it's  
20 two lots, even though it's the same size?

21 MR. DAVIS: Well, what I'm saying is  
22 that this board shouldn't change anything. And  
23 that when, when they created this agreement, the  
24 understanding was that it was only going to be

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2 one house that was going to access Sycamore and  
3 that is the lot 22 that exists now.

4 MR. KESSLER: But --

5 MR. DAVIS: And so now he wants to have  
6 two houses that could potentially use Sycamore.

7 MS. TAYLOR: I have a question. Did any  
8 of the other lots have the potential to  
9 subdivide?

10 MR. DAVIS: I don't know the answer to  
11 that, but we'll get that to you.

12 MS. TAYLOR: I don't know. When we were  
13 there on Sunday, it looked as though they -- the  
14 houses were pretty close to each other, they may  
15 not have had sufficient room to, you know, chop  
16 off land and make another house. And maybe that,  
17 and maybe their point of view would be different  
18 if they did have that kind of potential. I don't  
19 know. But I really wanted to hear from the  
20 engineer about why he felt, why you're saying  
21 that it would overburden the road. I don't really  
22 get it.

23 MR. ELLIOT SENOR: Elliot Senior. My  
24 office is at 90 North Central Avenue in

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2 Hartsdale, engineer and land surveyor. I think to  
3 answer your question about overburdening, I'm not  
4 sure he's -- I think he's talking about the cost  
5 evaluation of the split, not anything else. I  
6 don't know if he's referring to anything else.

7 MS. TAYLOR: Is that what you're  
8 referring to?

9 MR. DAVIS: Well, what --

10 MS. TAYLOR: That it would overburden  
11 the road if there was --

12 MR. DAVIS: What I'm saying is it was  
13 never anticipated that there would be this second  
14 lot. And, and the parties entered into the  
15 agreement, with the sharing agreement with the  
16 understanding that there would only be one house  
17 on that road.

18 MR. KEHOE: Is it I think --

19 MR. KIMMERLING: Right now, there's no  
20 house, right?

21 MR. KESSLER: There's one.

22 MR. KESSLER: There's no egress.

23 MR. DAVIS: No, there's one house.

24 MR. KIMMERLING: But there's no driveway

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2 to that house off Sycamore.

3 MR. KESSLER: There is.

4 MR. KIMMERLING: There is? There is?

5 UNIDENTIFIED FEMALE: Yeah, there is. He  
6 doesn't use it.

7 UNIDENTIFIED MALE: He doesn't use it.

8 MR. KEHOE: You can't speak from the  
9 audience.

10 MR. KIMMERLING: Sorry, we didn't see  
11 it.

12 MR. DAVIS: It's there. It's in his back  
13 yard, going to Sycamore.

14 MR. KIMMERLING: Okay. Thank you.

15 MS. TAYLOR: So it's behind the white  
16 house we were standing in front of?

17 MR. DAVIS: I'm not sure what the color  
18 of the house is, but yeah. If my clients say yes,  
19 then it's --

20 MS. TAYLOR: Okay.

21 MR. DAVIS: -- the answer is yes.

22 MR. ROTHFEDER: So, Mr. Davis, if there  
23 was an original RMA that was developed because of  
24 the three houses that were built there, why



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2 couldn't it be revised to include another lot and  
3 lessen the burden? It would be a lesser burden on  
4 the other --

5 MR. DAVIS: They don't want to revise  
6 it.

7 MR. ROTHFEDER: -- residents because the  
8 percentages would go down for them?

9 MR. DAVIS: They're not interested in  
10 revising it. And furthermore, when, when they  
11 built this road, because it's at the end, they're  
12 going to completely be ripping it up during the  
13 construction phase.

14 MR. KESSLER: Could we get a map that --  
15 We don't see the houses on Sycamore here on these  
16 plans. I get, Keith, can we see --

17 MR. STAUDOCHAR: I don't have anything  
18 other than what Chris has.

19 [OFF-MIC CONVERSATION]

20 MR. STAUDOCHAR: We have something.

21 MR. DAVIS: Just like it's a private  
22 road, this was a private agreement. So this is  
23 not as if you're coming back to the planning  
24 board and you're asking for a site plan

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2 amendment. This was a private agreement in 2012.  
3 Everybody abided by it. Everybody has to live by  
4 it. And we're asking Mr. Connolly, we're not  
5 saying don't build your house, but come in off  
6 McManus. It was a done deal in 2012.

7 MR. ROTHFEDER: But there are no  
8 physical restrictions to prevent utilities that  
9 are already there on Sycamore Road from being  
10 accessed. The, the utilities, the sewer, the --

11 MR. DAVIS: Well, I'm going to defer to  
12 my engineer.

13 MR. ROTHFEDER: -- I imagine they have  
14 septic, but you know, the, the electrical and  
15 all of the other fire related --

16 MR. DAVIS: Well, as I already stated,  
17 there's no legal document that says any utilities  
18 can be in this road. And it's not even clear who  
19 even owns this private road.

20 MR. KIMMERLING: Okay. Well these issues  
21 are not really planning board issues are they?  
22 Who owns the road and what the private agreement  
23 is among the parties?

24 MR. DAVIS: Well, they're absolutely

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2 planning board issues because --

3 MR. KIMMERLING: Actually, I was asking  
4 our attorney, just if these were relevant to our  
5 --

6 MR. CUNNINGHAM: They only become issues  
7 as far as the maintenance of the road itself and  
8 access to the property. But as far as looking to  
9 how it would be [unintelligible] [00:24:07], be  
10 possible, it's not, it's generally outside of  
11 this board's purview.

12 MR. KIMMERLING: Thanks.

13 MR. DAVIS: Well, if I could just  
14 address that, if they can't have access to it  
15 from a legal standpoint, it's sort of like, you  
16 know, I want to put a pipe through your property.

17 MR. KIMMERLING: Yeah, if they can't  
18 have access from a legal standpoint, then we  
19 wouldn't really be talking about this, right.  
20 Don't you need to resolve your legal problems  
21 before you come to the board?

22 MR. DAVIS: Well, I'm the neighbor. So  
23 what we're saying is that they don't have a right  
24 to come across.

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2 MR. KIMMERLING: We're not going to be  
3 able to decide who has the right to --

4 MR. KEHOE: Well, well, but that's sort  
5 of what we talked about a little bit at the work  
6 session, is that it's not going to be resolved  
7 tonight.

8 MR. KIMMERLING: Right.

9 MR. KEHOE: Our legal department needs  
10 to do more analysis.

11 MR. KIMMERLING: We're not going to sit  
12 and decide that.

13 MR. KEHOE: Right. So the attorney for  
14 the resident has made his point. Now, I guess the  
15 engineer will make some engineering points. And  
16 then maybe the residents or the applicant will  
17 make some points and then it gets adjourned for  
18 more research.

19 MR. KIMMERLING: Got it.

20 MR. KEHOE: But I think the threshold  
21 question is yes, if they are right, then it  
22 doesn't matter. It doesn't go before you anymore.

23 MR. BIANCHI: So counsel will advise us  
24 before the next meeting.

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2 MR. CUNNINGHAM: I will, yes. I think  
3 tonight we'll hear the neighbors' attorney's  
4 concerns, neighbors' engineer's concerns, the  
5 neighbors' concerns. We'll allow the applicant to  
6 respond And then I'll allow both sides to submit  
7 briefs and we'll, you know, I guess I'll act like  
8 a judge in this case and then I'll make some sort  
9 of determination and I'll send a board memo.

10 MR. KESSLER: Great.

11 MR. JASON SINKS: Hey, guys, Jason  
12 Sinks, I live in 7 Sycamore Court. If you want to  
13 point out the houses I can. So the current  
14 structure is the red roof there, is the rental  
15 property I believe and there is dirt/grass  
16 driveway that --

17 MR. KESSLER: You should really do this  
18 at the mic.

19 MR. SINKS: So, yeah, the house is the  
20 red roof there. There is a grass driveway on the  
21 back side of the garage that leads out to  
22 Sycamore Court, past, so you see where all the  
23 farm is, where the gardens are.

24 MR. KESSLER: Yeah.

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2 MR. SINKS: Out that way is a dirt  
3 driveway out to Sycamore. So the back house with  
4 the solar is 7 Sycamore and then 5 and 3, and  
5 then 1 is down the hill. So it does lead out to  
6 there. It is used, it can be used. It's not  
7 currently used all that often.

8 MR. KIMMERLING: Thank you.

9 MR. SENOR: Yes, hi. Good evening again,  
10 Elliot Senor. So I wrote a memo that listed a  
11 dozen different items. The big, the couple of big  
12 items is the site distance up and down the road  
13 from the new curb, the new driveway. A site  
14 distance usually measured ten feet back from the  
15 edge of road with a site distance 200 feet in  
16 each direction along the roadway. The plan that  
17 they submitted doesn't show that as their site  
18 distance. The problem that I see is that because  
19 of the very steep hill coming down and the cut  
20 into the hill six or eight feet, you may not get  
21 the site distance that he shows on his plan up  
22 and down the road. I think it could be --

23 MR. KESSLER: Do site distances apply to  
24 a private road?

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2 MR. SENOR: It applies to any  
3 intersection yes. You have to be able to see a  
4 car coming up and down the road when you're  
5 entering it to make a left turn to go out,  
6 absolutely.

7 MR. KESSLER: But the site distance is -  
8 -

9 MS. DECKER: But it already has a  
10 driveway.

11 MR. KESSLER: What? Yeah, but site  
12 distances are in the town code, right, for town  
13 roads.

14 MR. KEHOE: That would be addressed to  
15 our engineer. But yes, I think, but, no, I think  
16 their point -- you'd have to have site distance.

17 MR. KESSLER: Do you think, you know,  
18 every road is set up with a site distance between  
19 driveways of 200 feet?

20 MR. KEHOE: I would never say every.

21 MR. KESSLER: You know, I'm just  
22 thinking around town.

23 MR. KEHOE: Well but, once again, I  
24 think that's a point that he's raised. The

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2 applicant's engineer will have to address that.

3 MR. SENOR: Again, the, so the curb, the  
4 driveway cut is about six or eight feet into a  
5 steep hillside. The storm water and erosion  
6 control, the storm water management isn't fully  
7 vetted yet. I see it on the plan. I didn't see  
8 any calculations. They show one CULTEC or two  
9 CULTECs, one on each corner of the house for the  
10 entire house and property. I didn't see any  
11 calculations for that. They have an overflow that  
12 leads down the hill, leads out, a pipe out to the  
13 hillside. If that does overflow, it's going onto  
14 somebody else's property as well as causing  
15 erosion because it's down a steep slope.

16 The septic system is not really vetted  
17 out. They did some testing that I hear, but in  
18 the past, most towns require us to get an  
19 approval before we move toward to a final  
20 subdivision approval when we're doing a septic  
21 system. So I think that should be done.

22 I guess the big question is why can't  
23 they use the McManus access? The roadway is  
24 there. The property at that end is flat, so



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2 there's no road cut, there's no driveway cut,  
3 there's no problems with site distances. They do  
4 show their septic system on that end of the  
5 property or that side. But the regulations for  
6 septic system as of April 1st has been cut by 45  
7 percent. So they can have the road access and the  
8 septic system in the same area because they went  
9 from a 200-gallon a day loading per bedroom to  
10 110-gallon per day, or even less if you take some  
11 other steps, pretreatments.

12 So the access from McManus Road wouldn't  
13 require a cut, wouldn't have any overflow or  
14 water drainage issues, because right now they  
15 don't show a catch basin at the end of the  
16 driveway that's entering Sycamore. So we have  
17 water running off uncontrolled. So I think that  
18 McManus is still a viable access point.

19 Also, on the original subdivision of  
20 this property there is a note about removing the  
21 pipe access to Sycamore. On the original  
22 subdivision that created this lot in 1996,  
23 there's a note. It says lot one may not be sold  
24 until a proposed water service line and meter pit

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2 shown here on to service lot one, which is the  
3 lot in question, has been installed and the  
4 existing common service line presenting servicing  
5 one has been connected thereon.

6 So that, as far as I know, that line is  
7 still on the proposed plans and hasn't been  
8 disconnected and ran down McManus. By the way,  
9 the planning board originally approved it in  
10 1996. There are several other comments. I await  
11 their re-submittal and answer other questions.

12 MS. TAYLOR: Are there any other  
13 comments that need to be made at this particular  
14 point?

15 MR. SINKS: Hey guys, Jason Sinks, at 7  
16 Sycamore. I think for us it's really, we want to  
17 welcome the new house to the neighborhood and  
18 everything like that. It's just we don't want to  
19 wreck Sycamore by having construction vehicles  
20 coming up and down. And we would love a driveway  
21 not on Sycamore. We don't want to readdress our  
22 homes, we don't want to go through that whole  
23 rigmarole. So using McManus is really what we'd  
24 love to see. Thank you.

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2 MS. DECKER: Can I ask a question? I'm  
3 not following. So they, he currently does have a  
4 driveway on Sycamore though?

5 MR. SINKS: Yeah. So there, so the  
6 subdivision of the current house has a driveway  
7 on it. It's not used. It's a grass driveway. It  
8 goes to two garage doors that don't -- it's not  
9 the front of the house, right. You wouldn't use  
10 it. You, you know, nobody uses it. The renters  
11 that live there drive up and down McManus, right.  
12 Everyone uses McManus for that section of homes.

13 MS. DECKER: So quick --

14 MR. KEHOE: Can you see my cursor?

15 MR. SINKS: Yeah.

16 MR. KEHOE: Are you saying it's like  
17 this?

18 UNIDENTIFIED FEMALE: Yes.

19 MR. SINKS: Yes, exactly, right. And so  
20 the proposed driveway is about what, 100 feet  
21 south, or lower on your screen, right there, for  
22 where the start of the garden is, right. So there  
23 would be a second driveway out to Sycamore that  
24 would be for the subdivided location.

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2 MR. KEHOE: So you're saying right now,  
3 there is an existing grass driveway?

4 MR. SINKS: There is an existing grass  
5 driveway, absolutely. It is the size of one car  
6 that goes out to Sycamore.

7 MS. DECKER: It was, I mean it was  
8 sufficient to cause them to enter into an  
9 agreement.

10 MR. SINKS: Correct.

11 MS. DECKER: For maintenance of  
12 Sycamore.

13 UNIDENTIFIED FEMALE: Right.

14 MS. DECKER: Right, okay.

15 UNIDENTIFIED MALE: Correct.

16 [unintelligible] [00:33:59].

17 MR. SINKS: Yeah.

18 MS. DECKER: Okay.

19 MR. SINKS: Yeah, and, yeah.

20 MR. BIANCHI: Well, we were there on  
21 Sunday. Why wasn't that visible to us?

22 MR. SINKS: Because it literally is  
23 grass. Where you guys were standing, you guys  
24 didn't even come down to where the driveway was

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2 supposed to be. You guys were up by the garden  
3 area. If you'd walked down --

4 MR. BIANCHI: We did walk down -- we did  
5 walk down where the proposed driveway was to be  
6 placed. We walked down there.

7 MR. KEHOE: Well, Tom, we were more or  
8 less here, and sort of looked more in this  
9 direction.

10 MS. TAYLOR: Yeah, and --

11 MR. KEHOE: Rather --

12 MR. SINKS: Yeah, so if you walked down  
13 50 feet, you would have seen where, where he was  
14 digging out and putting new rocks on the driveway  
15 last week.

16 MR. KEHOE: It's behind the new  
17 evergreens.

18 MR. SINKS: Yeah, there's like six or  
19 eight new evergreens there, right.

20 MR. BIANCHI: That was very steep over  
21 there. I still don't, okay.

22 MR. KESSLER: And it's currently not  
23 overgrown, that, that dirt driveway. It could be  
24 used today is what you're saying?

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2 MR. SINKS: Absolutely, there was a car  
3 parked there for a while, yeah, absolutely.

4 MR. FOLEY: Can I ask the elephant in  
5 the room, or elephant on the road question? Why  
6 not McManus? Unless I missed something?

7 MR. SINKS: That, I can't answer.

8 MR. FOLEY: Why -- a legal thing?

9 MR. STAUDOCHAR: A couple things. If  
10 there is in fact an existing grass driveway on  
11 the north side of the -- where he just planted  
12 evergreens, we will eliminate that and preclude  
13 that lot from having any access on to Sycamore  
14 and only the new lot would have access onto  
15 Sycamore. Therefore, we wouldn't overburden the  
16 road. As far as McManus goes, it's too narrow, so  
17 it wouldn't work, and site distance, you can see,  
18 it's a pretty straight road. So, site distance, I  
19 mean we can remove a little bit of brush on each  
20 side and have no issues with that.

21 So, as you guys saw when you were out  
22 there, it's pretty straightforward otherwise. I  
23 mean it seems to me there's some legal things  
24 that I'll have our attorney respond to, but I

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2 just wanted to make that point. We could set up  
3 the subdivision plat so that the existing house  
4 only has access down through McManus and not on  
5 to Sycamore. That's not an issue.

6 MR. ROTHFEDER: How many homes use  
7 McManus now?

8 MR. STAUDOCHAR: Four.

9 MR. ROTHFEDER: Four. But it's, you're  
10 saying it's too narrow, yet four people --

11 MR. STAUDOCHAR: It's narrow, so it would  
12 have to be widened and there's large oak trees  
13 and there's some ledge, and it would just -- it  
14 wouldn't be the right thing to do.

15 MR. ROTHFEDER: Have you received  
16 confirmation that all of that would have take  
17 place or are you just saying --

18 MR. STAUDOCHAR: Excuse me?

19 MR. ROTHFEDER: Have you gotten any  
20 confirmation that you would have to widen the  
21 road, etc., from anybody?

22 MR. STAUDOCHAR: Well, based on past  
23 experience with the town engineer on things like,  
24 yes, we would have -- I mean I don't have it

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2 confirmed for this specifically. We had a Zoom  
3 meeting before we even made application to the  
4 town, we had a Zoom meeting with the town  
5 attorney, the town engineer and I think Martin  
6 was on that and Chris. And it didn't seem like  
7 there were any obstacles, so, uh --

8 MR. CUNNINGHAM: But, Keith, you know  
9 what I mean, it was very preliminary. That was  
10 before there was any application.

11 MR. STAUDOCHAR: I understand that, but -  
12 -

13 MR. CUNNINGHAM: [unintelligible]  
14 [00:37:11] any actual [unintelligible] [00:37:12]  
15 --

16 MR. STAUDOCHAR: I get that, but we, you  
17 know.

18 MR. CUNNINGHAM: We can't, we can't say  
19 that, you know. If we didn't see an issue  
20 [unintelligible] [00:37:15] there's, that that --

21 MR. STAUDOCHAR: Well, there was no red  
22 flag at that point, either, right. So we're here.  
23 It seems pretty straightforward.

24 MR. FOLEY: Are you saying that --



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2 MS. TAYLOR: You know, folks, I think we  
3 -- there's some of this discussion that needs to  
4 take place off site.

5 MR. STAUDOCHAR: Sure.

6 MS. TAYLOR: You know, so that we can go  
7 on with the meeting tonight. These are answers --  
8 questions that can't be answered without  
9 additional input. Did you, have you ever seen  
10 these, Mr. Fusillo?

11 MR. FUSILLO: Yes, ma'am, I've seen the  
12 plans.

13 MS. TAYLOR: You have, okay.

14 MR. KEHOE: He did provide a memo from  
15 Chazen Labella, yeah.

16 MS. TAYLOR: Yeah, yeah, okay.

17 MR. WALDINGER: Good evening again. My  
18 name is Steven Waldinger and my firm represents  
19 the applicant. I understand there's been some  
20 legal issues raised this evening and the public  
21 hearing will be continued, so we'll have an  
22 opportunity to address those issues in writing,  
23 which we will do.

24 I just want to make a couple of very

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2 brief comments. First, with respect to connecting  
3 the utilities and the water main, the home  
4 presently on the lot to be subdivided is  
5 connected to the water main and utilizes on  
6 Sycamore. That exists as of this date.

7 Furthermore, Mr. Davis referenced some  
8 additional homes being built on Sycamore. It's my  
9 understanding that they as well are connected to  
10 the utilities on Sycamore. So we have as much  
11 right to maintain the connection that currently  
12 exists and connect it to the subdivided parcel as  
13 the prior people who developed their homes on  
14 Sycamore did.

15 In addition, it's important to  
16 understand that the applicant's rights to ingress  
17 and egress from Sycamore do not derive from the  
18 Road Maintenance Agreement. They derive from the  
19 1961 easement that Mr. Davis mentioned. A road  
20 maintenance agreement cannot abridge, it cannot  
21 reduce the rights that are set forth in  
22 perpetuity in an easement. And we'll address that  
23 legal issue as well. The Road Maintenance  
24 Agreement is simply a document between parties

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2 who share a road to share the costs and  
3 maintenance and things like that. It can't reduce  
4 the rights that's set forth in an easement.

5 With respect to issues concerning  
6 overburdening the road and construction related  
7 damage, I mean we really feel that that's a red  
8 herring. If there's damage to the road as a  
9 result of construction, the applicant of course  
10 will take responsibility, 100 percent  
11 responsibility for bringing the road back up to  
12 standards.

13 I think that's it for tonight. As I  
14 said, we'll address all the legal issues in a  
15 memorandum or a forum acceptable to the town  
16 attorney and we can flesh all of those out. Thank  
17 you.

18 MS. TAYLOR: Alright. Thank you.

19 MR. DAVIS: If I could just make one  
20 brief point?

21 MS. TAYLOR: Please.

22 MR. DAVIS: With regarding the damage to  
23 the road, it could completely tear it up, so it  
24 could stop, you know, all activity on that road.

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2 I don't know how people are going to access their  
3 house. If this was a public road, and the  
4 planning board, pursuant to the planning board  
5 regulations, you would require the applicant to  
6 post a bond to make sure that the road is  
7 correct. But this is a private road. So while Mr.  
8 Waldinger says we'll come to the plate, my  
9 clients are not interested in necessarily  
10 bringing litigation against them. And no matter  
11 how much good faith it might be, it could cost  
12 hundreds and hundreds of thousands of dollars  
13 ripping up that road.

14 So, I would submit that to the extent  
15 that the board is somehow inclined to grant the  
16 subdivision to allow them to use Sycamore, that  
17 they require the applicant pursuant to the powers  
18 of the planning board, to post a bond to make  
19 sure that there's a pool of money to correct  
20 whatever damage that they do, so my clients don't  
21 have to, you know, go to the expense of  
22 litigating to correct the issue. Thank you.

23 MS. TAYLOR: Okay. Very good. You might  
24 want to take a look at that.

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2 MR. STAUDOCHAR: Just one more point.  
3 Thank you. I just lost my train of thought,  
4 unbelievable. So the disturbance to the road.  
5 We're talking about a three-foot wide saw cut dig  
6 a trench and connect the water service and a  
7 driveway curb cut. I think the applicant would be  
8 amenable to providing a performance bond to  
9 ensure that if anything does happen, we would be  
10 able to fix that. In lieu of everything tonight,  
11 we are looking to adjourn this public hearing to  
12 the July meeting if that's possible. To give us  
13 time to respond.

14 MR. KEHOE: Skipping June?

15 MR. STAUDOCHAR: What?

16 MR. KEHOE: Skipping the June meeting?

17 MR. STAUDOCHAR: Skipping June, yes.

18 MR. KEHOE: Okay.

19 MS. TAYLOR: Okay.

20 MR. STAUDOCHAR: Thank you very much.

21 MS. TAYLOR: So that should give  
22 everybody enough time to do what you need to do.  
23 Yes.

24 MS. STACEY RETALLICK: Hi, my name is

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2 Stacey Retallick and I live at 5 Sycamore Court.  
3 I just wanted to make one point about how Mr.  
4 Cronin said that they would close off one  
5 driveway and build the other. That doesn't solve  
6 the issue that we have with drainage. The  
7 driveway that's there now that is not being used,  
8 that driveway is flat. That causes no drainage  
9 issues to our road. This new driveway will be so  
10 steep that the water is going to literally come  
11 down the driveway and flow into my yard, our yard  
12 at 5 Sycamore Court, because the driveway will be  
13 directly across from my yard. So, closing off one  
14 and putting the other doesn't solve the issue  
15 that we have.

16 And again, to reiterate Mr. Sinks'  
17 point, we're not opposed to the house being there  
18 at all. We're happy to have them. We just don't  
19 want the driveway flowing down and causing the  
20 water and all that kind of stuff. And, and to  
21 another point, and this is not a legal issue, but  
22 we have children who walk up and down, their bus  
23 stop is at the end of the road. And at various  
24 times during the day, they're all walking to the

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2 bus stop. We have kids in three different  
3 schools, then we also who have kids who play  
4 sports after school and they're taking later  
5 buses home.

6 So, one of the responses was that they  
7 would schedule the deliveries when the kids were  
8 not going to the bus. That's impossible. Because  
9 deliveries come when deliveries come. And just  
10 the other day, while it was up on McManus, it was  
11 not on Sycamore, but my son was walking home from  
12 the after school sports bus, and there was a dump  
13 truck up on McManus dumping something. And from  
14 in the house, I hear this loud bang, which was  
15 the tailgate of the dump truck. So now I'm  
16 panicking because I know my son is walking up the  
17 street from the bus and I don't know what this  
18 noise is. And then come to find out, it's a  
19 construction vehicle. So if those vehicles are on  
20 Sycamore Court, this is what we have to deal with  
21 now for months of construction in addition to  
22 them, you know, digging up the road and causing  
23 possible damage. We have to worry about our  
24 children going back and forth to the bus stop

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2 with these construction vehicles coming in and  
3 out. Thank you.

4 MS. TAYLOR: Okay.

5 MR. BIANCHI: I have a question for  
6 Keith again. Two things that we left you with on  
7 Sunday, one you alluded to it before, but to me,  
8 when you say you don't feel that you're going to  
9 be allowed to do anything on McManus Road, that's  
10 not good enough. We'd like, or I'd like, to see  
11 confirmation that in fact access on McManus Road  
12 is going to require widening of the road or  
13 whatever improvement would have to be made.

14 MR. STAUDOCHAR: Sure. I mean I'll confer  
15 with the town engineer on that.

16 MR. BIANCHI: Just to --

17 MR. STAUDOCHAR: Yeah.

18 MR. BIANCHI: -- close that out. And  
19 then secondly, this doesn't help the access to  
20 Sycamore any, but we talked about flipping the  
21 house and putting the driveway further up on  
22 the[unintelligible] [00:45:17]

23 MS. STAUDOCHAR: Yeah, we had talked  
24 about that and I did prepare a sketch.



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2 MR. BIANCHI: I don't know if that helps  
3 frontage wide, or --

4 MR. STAUDOHAR: I didn't hand it out,  
5 but I'll circulate it to the planning board, the  
6 sketch that we did. I didn't bring it out for  
7 tonight. But yes, we showed -- there's a sketch  
8 that we flip flopped the driveway and the house.

9 MR. KEHOE: Or you can make that part of  
10 your resubmission. You can give it to me  
11 whenever, but --

12 MR. STAUDOHAR: Yeah, absolutely.

13 MR. KEHOE: Okay.

14 MR. STAUDOHAR: Yeah, I want to refine  
15 it a little bit more.

16 MR. FOLEY: On the same thing that Tom  
17 just brought up, I wasn't at the site visit, I  
18 was out of town. I do want to go and look. I was  
19 going to try to do that this afternoon, but was  
20 worried about getting back here with the traffic,  
21 so I am going to go look at some point. I'll  
22 check with Chris first. Back to the two roads,  
23 McManus, is McManus, someone said there are  
24 houses on McManus.

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2 MR. STAUDOHAR: It's four.

3 MR. FOLEY: And people use it. Four.

4 MR. STAUDOHAR: Just four houses.

5 MR. FOLEY: Is that a town or a private  
6 road.

7 MR. STAUDOHAR: It's a common driveway.

8 MR. FOLEY: Oh, a common driveway,  
9 alright. So if I go visit, I'll look at all that.  
10 I don't know when --

11 MR. STAUDOHAR: There's a sign at the  
12 street that says McManus Road. You can go up  
13 McManus Road.

14 MR. FOLEY: Right.

15 MR. STAUDOHAR: And park over by --

16 MR. FOLEY: I think years ago when it  
17 was Radzvilla or one of them I looked, but again  
18 --

19 MR. STAUDOHAR: Well, Radzvilla is the  
20 next one to the west.

21 MR. FOLEY: Okay.

22 MR. STAUDOHAR: McManus and then  
23 Radzvilla, well, I'm sorry, Sycamore.

24 MR. BIANCHI: McManus is not a town

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2 road?

3 MR. KESSLER: Right.

4 MR. STAUDOHAR: No.

5 MR. FOLEY: The concern is that McManus  
6 is --

7 MR. STAUDOHAR: It's a common driveway.

8 MR. BIANCHI: Oh. I didn't --

9 MR. KEHOE: McManus is less developed  
10 than, much less developed than Sycamore.

11 MS. TAYLOR: That's right.

12 MR. KEHOE: When I say developed,  
13 meaning pavement width and -- it's more like a  
14 driveway.

15 MS. TAYLOR: McManus needs some work.

16 MR. BIANCHI: Really.

17 MR. FOLEY: So that was there years ago  
18 and is not subject to the town code as far as the  
19 width of the road or anything.

20 MR. KEHOE: Well, what Keith is getting  
21 at is the whole issue of subdivisions off of  
22 private roads, we need to prepare some  
23 information to provide to the board, because it's  
24 not really a question Keith can necessarily

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2 answer, it's that we have to answer and provide  
3 you information on what the town's position is  
4 with respect to subdivisions off of private  
5 roads.

6 MR. BIANCHI: Right.

7 MR. FOLEY: I second.

8 MR. BIANCHI: So we should move on?

9 MS. TAYLOR: Are we done for tonight? No  
10 more questions?

11 MR. CUNNINGHAM: Madam Chair, can I  
12 summarize a few legal issues, just so both sides  
13 can respond? I think one of them is just  
14 clarifying the ownership of easement rights over  
15 Sycamore. A second is any authority supporting  
16 the ability to subdivide a lot on a private lot.  
17 And I think another issue that's outstanding is,  
18 and I'm not saying this issue confers a right to  
19 travel it, but how would the maintenance function  
20 of the road if the new lot was added.

21 MR. STAUDOCHAR: If you could explain  
22 that last one [unintelligible] [00:47:43].

23 MR. CUNNINGHAM: So, so right now,  
24 there's an agreement written that has a

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2 percentage allotted deeds property, so how would  
3 that function meanwhile with that.

4 MR. STAUDOHAR: Okay.

5 MR. BIANCHI: Madam Chair, I move that  
6 we adjourn the public hearing to the July  
7 meeting, and I guess before then we'll get a  
8 report from counsel on the legal issues and then  
9 we can take up the site issues.

10 MR. KESSLER: Second.

11 MR. KEHOE: And, and just --

12 MR. STAUDOHAR: If I could just ask,  
13 what's the date of that --

14 MR. KEHOE: Yes, I was going to say that  
15 due to the July 4th holiday, we pushed it back to  
16 the next week, so I believe the meeting is July  
17 12th.

18 MR. BIANCHI: Right.

19 MR. STAUDOHAR: Thank you very much.

20 MS. TAYLOR: Alright.

21 MR. FOLEY: We got a second or?

22 MR. KESSLER: There is, yeah.

23 MR. BIANCHI: I made, he seconded.

24 MR. FOLEY: Oh, okay.

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2 MS. TAYLOR: Oh, we did? I didn't hear  
3 it, I'm sorry. On the question?

4 MR. FOLEY: No, no question.

5 MS. TAYLOR: Okay. I'm losing my mind  
6 here. All in favor?

7 MULTIPLE: Aye.

8 MS. TAYLOR: Opposed? Alright. The next  
9 item for consideration is the application of PB  
10 2022-4, the application of the Gurdjieff, how is  
11 that done?

12 MR. MATT STEINBERG: Gurdjieff,  
13 Gurdjieff is fine, yeah.

14 MS. TAYLOR: It's the application fo the  
15 Gurdjieff Foundation of New York for the property  
16 of the Danish Home for the Aged, Inc., or  
17 Incorporated, for site plan approval and a  
18 special permit for a non-school curriculum  
19 program use of the property, located at 1065  
20 Quaker Bridge Road East, drawings, the latest  
21 revised drawings, April 20, 2022.

22 MR. STEINBERG: Good evening Madam  
23 Chairperson and members of the board. We appeared  
24 -- my name is Matt Steinberg, I'm an associate

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2 with DTS Provident, based in White Plains. I'm  
3 here on behalf of the Gurdjieff Foundation. I'm  
4 joined by Joe Gianolla and Lloyd Oestreicher from  
5 the Gurdjieff Foundation. They're here tonight.

6 We appeared before this board at the  
7 March meeting. I presented a brief summary of the  
8 application. The board had some questions. Since  
9 that time, we received a memo from the planning  
10 department. We provided a series of responses in  
11 your packets. We also had an opportunity to speak  
12 with your traffic consultant. They gave us some  
13 preliminary comments. We are in the process of  
14 collecting data to be able to provide a capacity  
15 analysis to this board for you to have your  
16 traffic consultant review.

17 We also, in the packets, we provided a  
18 number of exhibits trying to answer some of the  
19 questions that were raised, both in the memo from  
20 Mr. Kehoe and by the board at the previous  
21 meeting. This included a sample annual calendar.  
22 There was a number of questions about the use of  
23 the facility for the foundations' program. We  
24 briefly described it in our initial submission,

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2 but we thought it would be a better way to  
3 understand it would be to see it in a sample  
4 calendar. So essentially that shows an entire  
5 year of proposed programs. It gives the  
6 frequency, the duration, the number of  
7 anticipated members that would come to the  
8 facility and then the number of members that they  
9 anticipate sleeping over during those programs.

10 We also provided a floor plan of the  
11 existing Danish Home. It shows how the site is  
12 laid out today and some of the, what the bedrooms  
13 and the other spaces. I think it will be useful  
14 for when you do schedule a site visit to help you  
15 understand the facility as you walk through the  
16 former Danish Home building.

17 We provided an evaluation of the  
18 existing onsite sanitary disposal system. There's  
19 a number of existing septic systems that have  
20 been constructed over the years on the facility.  
21 So this describes a little bit about them. We are  
22 in receipt of a comment from the Westchester  
23 Department of Health. As a change of use, this  
24 will need an approval to use the existing septic



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2 for the new use. So we will use that document as  
3 a starting point to have discussions with the  
4 health department about what documentation they  
5 need in order to approve this new use.

6 As you can see on the site plan, so this  
7 is the septic plan up on the screen now that  
8 Chris brought us. The site is fairly large. It's  
9 about 48 acres. The septic systems are located on  
10 the north side of the building. There's one for  
11 the original structure in that location, there's  
12 another one to the west which was constructed as  
13 part of a 1958 addition and then there's a newer  
14 system that is on the east side of the site that  
15 handles gray water and a grease trap for the  
16 kitchen facilities. So there's a few systems.

17 The Danish Home was very good about  
18 maintaining these systems and having them pumped  
19 and cleaned regularly. So we're confident that  
20 they should hopefully work for this use, but  
21 we'll obviously have to discuss that with the  
22 health department so that they can make the  
23 determination that the flows would match.

24 Due to the location of the site and the

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2 size, there is ample opportunity to do  
3 maintenance on these systems and to fix them or  
4 to modify them if needed.

5 We provided in the site plan drawing set  
6 that was requested, we provided an existing site  
7 plan. As I explained at the previous meeting, the  
8 Gurdjieff Foundation is excited for the  
9 opportunity to be at this site. They chose it  
10 because they liked the existing facility and they  
11 want to use it as it exists, to the extent  
12 possible.

13 So the site plan is what the site plan  
14 is today. We provided the locations of the  
15 existing lighting. That was one of the comments  
16 from the planning department was about lighting.  
17 So there's a series of lights on the site today.  
18 The Foundation believes they are sufficient for  
19 their needs. It's a combination of manually  
20 operated lights, and then a few remote motion  
21 sensing lights in various locations.

22 The nearest structure on the east side  
23 is the Lakewood Estate. It's about 500 feet from  
24 this property. The other properties to the south

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2 and southwest are all over 1,000 feet from the  
3 property, the nearest resident structures.

4 And then finally, there was some  
5 questions about parking. So we've provided a  
6 conceptual parking plan in the set, which is  
7 largely based on how the Danish Home was using  
8 the facility and the site. They've had, in  
9 addition to having their normal operations of  
10 staff to come to the adult home when it was an  
11 adult home, they also occasionally had special  
12 events during the summer months, where they had  
13 to park additional cars. So this, the Gurdjieff  
14 Foundation would like to use the 37, the space  
15 that accommodates about 37 cars on the paved  
16 surfaces of the site for their normal, everyday  
17 use for the smaller programs. There is another  
18 about 57 spaces along the roadway where cars can  
19 fully get off of the internal circulation roads  
20 and not block them and park along the grass. And  
21 then there is some field space at the north end  
22 of the site to be used as additional overflow  
23 parking to provide approximately 135, or space  
24 for 135 vehicles that would not impede any

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2 circulation on the site.

3 And then finally in your packets, we  
4 provided a narrative describing how this complies  
5 with the special permit conditions and standards.  
6 As we discussed last time, there was no  
7 definition of a nonschool curriculum program use,  
8 but we tried in that narrative to describe a  
9 little bit more about what the Gurdjieff  
10 Foundation is going to be using the site for, for  
11 their programs, for their members and then how  
12 that would comply with the special permit  
13 standards that are contained in the zoning code.

14 And I can answer any questions if you'd  
15 like.

16 MR. BIANCHI: In terms of intensity of  
17 use, how would you compare the Danish Home  
18 activities with what you're proposing here?

19 MR. STEINBERG: Sure. I mean it's  
20 slightly different. So the Danish Home had 24  
21 residents in the adult home. They had staff that  
22 would come to the site on a daily basis. There  
23 were some staff that did live on the site. They  
24 would get food deliveries. I think initially

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2 early on, it was larger trucks, but then by the  
3 end, it was box trucks that would come to the  
4 site. They would have visitors that would come on  
5 a daily basis. And then as I mentioned, they did  
6 have some special events and they would have  
7 families and other people come for the holidays  
8 for different events.

9 The Gurdjieff Foundation would be using  
10 it for their member programs, so they would be  
11 coming, I think we described a little bit last  
12 time. For a weekend program, they may arrive over  
13 a period on a Friday. So a number of them might  
14 come earlier in the day to set up for their  
15 program, start making some meals for when the  
16 others arrived, and then as other members were  
17 able to come from around the area, they would  
18 arrive. And then once they were on the site,  
19 generally they would remain on the site, because  
20 they would have programming during the weekend  
21 where they would do their readings, their  
22 meetings, their arts and crafts and things like  
23 of that nature.

24 So they would remain on the site, and

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2 then at the end of their program, you know, the  
3 ones that stayed over would leave, the few that  
4 were leaving on a daily basis would leave, you  
5 know, as they finished their programs for the  
6 day. And that would happen on a Friday to a  
7 Sunday or from one weekend to the next weekend.  
8 And then occasionally, there would be some night  
9 meetings.

10 So one of the things we're studying is  
11 the capacity -- we're looking at the roadway,  
12 we're doing counts so that we can apply the  
13 proposed use on to that.

14 MR. KEHOE: Just to touch upon that,  
15 your firm now has a large traffic component to  
16 it.

17 MR. STEINBERG: Sure.

18 MR. KEHOE: And they came up some ideas  
19 for the amount of traffic work they want to do  
20 that was sent to our traffic consultant, which is  
21 not AKRF on this case, it's Hudson Valley  
22 Engineering HVEA. They did NRP for us next door.  
23 We had a Zoom meeting where they wanted some  
24 [unintelligible] [01:00:14] said some specific

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2 counts whether they're in person counts or  
3 counters being put on the road to actually get a  
4 real world example of some of the traffic that's  
5 out there now. So that scope hasn't been  
6 finalized yet, but we'll get that to you when  
7 it's finalized.

8 MR. BIANCHI: Yeah, I was going to ask  
9 for that.

10 MR. STEINBERG: Yeah, so we'll be  
11 working on that to present to the board. So I  
12 hope that answers the question. It's a different,  
13 it's a slightly different use, it's a different  
14 timeframe that people would be coming.

15 MR. BIANCHI: Rather than a continuous  
16 use, it looks like a periodic use being proposed?

17 MR. STEINBERG: Right, being more  
18 periodic. And I think the calendar, hopefully  
19 does a better job at describing sort of the  
20 period and the durations that that would happen.  
21 And obviously, things would change if the weather  
22 was bad, they would not hold a program, so they  
23 might not use the facility.

24 MR. BIANCHI: It varies between 20 and

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2 40 people I see.

3 MR. STEINBERG: Right, depending on,  
4 right, depending on the program.

5 MR. BIANCHI: [unintelligible]  
6 [01:01:05] people on the weekend possible.

7 MR. STEINBERG: Correct.

8 MR. BIANCHI: Okay.

9 MR. KESSLER: How long has the  
10 foundation been in existence?

11 MR. STEINBERG: Since 1953.

12 MS. TAYLOR: Okay, no questions?

13 MR. BIANCHI: We should do a site visit  
14 on this.

15 MS. TAYLOR: Well --

16 MR. BIANCHI: Are we ready for that?

17 MS. TAYLOR: Yeah.

18 MR. BIANCHI: Want me to take it?

19 MS. TAYLOR: Sure.

20 MR. BRAD SCHWARTZ: Madam Chair, can I  
21 be heard very briefly on this?

22 MS. TAYLOR: I'm sorry?

23 MR. SCHWARTZ: Can I be heard very  
24 briefly on this, 30 seconds, I promise.



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2 MS. TAYLOR: Alright.

3 MR. SCHWARTZ: Good evening, Brad  
4 Schwartz from Zarin & Steinmetz. I just wanted to  
5 let the board know that our firm has been  
6 retained by the Greater Teatown Alliance, which  
7 is a community group distinct from CRHISD, but  
8 it's a community group that has concerns about  
9 the cumulative impacts about another potential  
10 commercial use introduced in this area. So we're  
11 monitoring, we'll participate during the public  
12 hearing process. I just wanted to let the  
13 planning board know.

14 MS. TAYLOR: Alright.

15 MR. SCHWARTZ: Thank you.

16 MR. KIMMERLING: Is there overlap with  
17 CRHISD?

18 MR. SCHWARTZ: There may be a little  
19 bit, but it's distinct. There's a large group  
20 that's not overlap.

21 MR. KIMMERLING: Okay.

22 MR. FOLEY: I, I have a question. Again,  
23 I read the EIF and I always look at the nos, or  
24 the unchecked. On the last page of the 13 pages

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2 of your EIS, let me just focus on them, you're  
3 saying no, that it's not in any corridor of any  
4 recreational river or anything. Is not the Hudson  
5 and/or certainly the Croton River fairly close to  
6 the property? You answered it as a no and in the  
7 other part of it you didn't answer.

8 MR. STEINBERG: With regard to the wild  
9 and scenic rivers?

10 MR. FOLEY: Yeah, the last question.

11 MR. STEINBERG: I can confirm that. Some  
12 of these questions are automatically generated as  
13 part of DEC's database. We can take a little  
14 further look to make sure that there wasn't a  
15 mistake in DEC's how far the buffer is for those  
16 rivers and whether or not the Croton is  
17 considered that. And if we have to amend that, we  
18 can definitely change it to a yes.

19 MR. FOLEY: Alright. It sounds like it's  
20 just boilerplate technicality.

21 MR. KEHOE: Just along those lines  
22 though, you did declare yourselves, your intent  
23 to be lead agent. I had to wait for the applicant  
24 to prepare the site plan more or less. So I did

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2 send out a lead agency notice to the Aqueduct  
3 State Park, the Village of Croton, the county  
4 health department and the county planning  
5 department. So I haven't heard back from the  
6 state parks yet.

7 MR. FOLEY: Okay. So they didn't see it,  
8 okay. Alright.

9 MR. BIANCHI: Okay. Madam Chair, I move  
10 that we refer, referring back to? Is that --

11 MR. KEHOE: You're going to schedule a  
12 site inspection.

13 MR. BIANCHI: Refer it back and set a  
14 site inspection, I don't know what the date is.

15 MR. KEHOE: Sunday, June 5th.

16 MR. BIANCHI: Sunday, June 5th.

17 MR. KEHOE: And we'll be out there at  
18 9:00 in the morning.

19 MR. KIMMERLING: Okay. Second.

20 MS. TAYLOR: Thank you very much. On the  
21 question? All in favor?

22 MULTIPLE: Aye.

23 MS. TAYLOR: Opposed? Alright. Very  
24 good, thank you.

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2 MR. STEINBERG: Thank you very much.

3 MS. TAYLOR: Alrightie. The next item on  
4 our agenda is PBX 2019-5, the application of  
5 Homeland Towers, LLC and New York SMSA Limited  
6 Partnership, dba Verizon Wireless for the  
7 property of Bezo Enterprises LLC for site  
8 development plan approval and special permit for  
9 a proposed public utility personal wireless  
10 facility, which is a telecommunications tower on  
11 a portion of a six-acre parcel of property  
12 located at 52 Montrose Station Road. The latest  
13 revised drawings August 5, 2021. Good evening.

14 MR. MICHAEL SHERIDAN: Good evening,  
15 chair and members of the board. My name is  
16 Michael Sheridan. I'm an attorney with Snyder &  
17 Snyder, LLP, the attorneys for Homeland Towers  
18 LLC and New York SMSA Limited Partnership, dba  
19 Verizon Wireless in connection with this  
20 application. As you may or may not recall, this  
21 application was before this board several years  
22 ago, starting in 2019 when it was solely a  
23 Verizon Wireless Application.

24 Since that time, we have addressed nu,

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2 LLP, the attorneys for Homeland Towers LLC and  
3 New York SMSA Limited Partnership, dba Verizon  
4 Wireless in connection with this application. As  
5 you may or may not recall, this application was  
6 before this board several years ago, starting in  
7 2019 when it was solely a Verizon Wireless  
8 Application.

9 Since that time, we have addressed  
10 numerous comments provided by not only this board  
11 but the board's consultants. In fact, as of  
12 August of 2021, the facility was redesigned where  
13 the tower went from being a lattice tower higher  
14 up on the property to now it's a monopole, which  
15 is lower on the property.

16 The tower itself is the same height, but  
17 it will be placed lower on the property,  
18 approximately 35 feet lower than was previously  
19 in the application.

20 Again, we're here tonight with -- we're  
21 now with the co-applicant is Homeland Towers.  
22 We're moving forward with that with Verizon  
23 Wireless still needed the facility to provide  
24 coverage to an area where there is a significant

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2 gap in coverage.

3 Tonight, we would like to have this  
4 board send it back for review so that we can come  
5 back hopefully soon with your consultant's  
6 comments, which hopefully have all been addressed  
7 since we have done this on several -- gone  
8 through this on several meetings and come back  
9 for an approval in the near future.

10 One more thing I'd like to add, with the  
11 redesign, the facility was consolidated into one  
12 area, fenced area where previously it was  
13 separated with a tower in a fenced area and the  
14 equipment compound. Consolidated it, moved it  
15 away from the property line at the back of the  
16 property, it was near the park, which was another  
17 request. And again, we believe we've addressed  
18 all the comments that have been provided by not  
19 only this board, but its consultant back in 2019  
20 and 2020.

21 MR. KEHOE: Just briefly, we're changing  
22 cell tower consultants. It used to be the Center  
23 for Municipal Solutions and now it's HDR, Michael  
24 Musso is our new cell tower consultant. He looks

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2 at it a lot with radio frequency and coverage  
3 maps and things like that. These firms are  
4 experts in the telecommunications law. Joe will  
5 look at it from a civil engineering perspective.  
6 Mike Preziosi did a very detailed memo, which I  
7 believe the last thing was your very detailed  
8 response to that memo in August of 2021.

9 MR. SHERIDAN: 2021, yes.

10 MR. KEHOE: But there has been no review  
11 of that submittal because once that came in, the  
12 project sort of went on hold.

13 MR. SHERIDAN: Correct.

14 MR. KEHOE: So I've reached out to both  
15 Joe and to Mike Musso, to send them all of the  
16 background information for them to start their  
17 reviews.

18 MR. SHERIDAN: Right. And that was the  
19 redesign that came in 2021.

20 MR. KEHOE: Yes.

21 MR. SHERIDAN: So that addressed, we  
22 believe that addressed all the comments that --

23 MR. KEHOE: So the assumption there'll  
24 be less comments this time, although there's --

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2 I'm warning you, because there's two different  
3 people looking at it now, but it was a pretty  
4 thorough response in August of 2021.

5 MR. SHERIDAN: Right. The hope is there  
6 will be no comments this time.

7 MS. TAYLOR: Hope on. Okay. All good at  
8 this point? Yeah?

9 MR. KIMMERLING: Madam Chair, I move  
10 that we refer this back to committee, staff,  
11 sorry.

12 MR. SHERIDAN: I'm sorry. Could I  
13 mention one more sort of housekeeping thing, if  
14 Mr. Kehoe could refer it for 239-M, the GML and  
15 also to the extent can the board declare its  
16 intent to be lead agency under SEQRA?

17 MR. KEHOE: Yeah, we did send it out. I  
18 was talking to Mr. Sheridan beforehand. I did  
19 briefly look in the file and we did do some  
20 referrals but it would be fine. I'll do  
21 additional referrals to interested and involved  
22 agencies and the 239 is the require referrals to  
23 the county. But then I guess we don't think you  
24 ever declared your intent to be lead agent, so



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2 maybe do that, or please do that.

3 MR. KIMMERLING: Can I do that in one  
4 motion?

5 MS. TAYLOR: Yes.

6 MR. KEHOE: Yes.

7 MR. KIMMERLING: Madam Chair, I move  
8 that we declare ourselves lead agent in this,  
9 lead agency in this application and that we refer  
10 it back to staff.

11 MR. BIANCHI: Second.

12 MS. TAYLOR: Thank you. On the motion,  
13 excuse me. On the motion? Alright. All in favor?

14 MULTIPLE: Aye.

15 MS. TAYLOR: Opposed? Alright, very  
16 good.

17 MR. SHERIDAN: Thank you.

18 MR. VINCENT XAVIER: If I could just say  
19 one thing before we go, I just wanted to  
20 introduce myself too. I'm Vincent Xavier, the  
21 regional manager for Homeland Towers and I'll be  
22 responsible for this project going forward. I'm  
23 actually also a resident of this town as well. I  
24 live off of Croton Avenue. So I look forward to

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2 working with you all on this project and  
3 hopefully we'll be able to address all your  
4 comments quickly and move us forward.

5 MR. KEHOE: Since you're there, one  
6 thing and I know the chairwoman always mentioned  
7 it when Michael Sheridan starts doing the DBAs  
8 and the SBAs and all that sort of stuff, so you  
9 will be the tower owner?

10 MR. XAVIER: Yes.

11 MR. KEHOE: Homeland Tower, so you're  
12 responsible for the tower itself.

13 MR. XAVIER: Correct.

14 MR. KEHOE: And then there'll be  
15 services on that, such as Verizon or other  
16 carriers will get on to that tower.

17 MR. XAVIER: That's correct.

18 MR. KEHOE: Because we rarely ever see  
19 the tower owner I believe at any of the meetings,  
20 right, Mr. Sheridan? It's usually just you. We  
21 never even really know who for sure the tower  
22 owner is. I mean at least I don't.

23 MR. XAVIER: Well, I'm very hands on for  
24 one. I'm not actually the owner, by the way.

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2 MR. KEHOE: Right.

3 MR. XAVIER: I'm not actually the  
4 president of Homeland Towers. I wish. I'm getting  
5 my jeep, not a Mercedes. But this is also my home  
6 town, so I'm going to be extra involved here.  
7 I've actually just a few weeks ago, I presented  
8 before the town board. I'm trying to work with  
9 the town to resolve several issues.

10 MR. KEHOE: Because there's one proposed  
11 I think by our train station.

12 MR. XAVIER: That was the one I was  
13 originally proposing, yes.

14 MR. KEHOE: Okay.

15 MR. XAVIER: I do think there's many  
16 more that are needed. What really starting  
17 driving me to this is both my children go to  
18 Lincoln Titus Elementary School and there is  
19 inadequate service in that building so I'm trying  
20 to find acceptable solutions for the community  
21 that'll provide the infrastructure that I think  
22 we need going forward. But I don't want to  
23 distract too much. This is the application right  
24 now. The town board has put the one at the train

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2 station on hold. I hope to work with them over  
3 the next coming years.

4 MR. KEHOE: But this is important  
5 because our engineers always have a lot of  
6 comments, technical comments about the tower. So  
7 it's nice to have someone. Who's the engineer,  
8 Kimley-Horn was it, or was that the other one?

9 MR. XAVIER: Right now, the engineer to  
10 the plans are the Scherer Design Group.

11 MR. KEHOE: Okay.

12 MR. XAVIER: When it comes to questions  
13 about the tower, a lot of that structural may  
14 come from the tower manufacturer.

15 MR. KEHOE: Okay.

16 MR. XAVIER: So there's several  
17 different engineers that we'll be using for this.  
18 But the current design engineers, the Scherer  
19 Design Group, SDG.

20 MR. FOLEY: What did you say your name  
21 was again?

22 MR. XAVIER: Vincent Xavier.

23 MR. FOLEY: Vincent Xavier, okay.

24 MR. XAVIER: Mm-hmm. Nice to meet y'all,

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2 I look forward to working with you. Thank you.

3 MS. TAYLOR: Excuse me, I think you  
4 mentioned that your son goes to a school and  
5 there's not good reception, I think that's what I  
6 heard.

7 MR. XAVIER: Yeah, please, listen, I  
8 want as much attention to this as possible. I've  
9 been going to Board of Education meetings for  
10 several years. Every time they bring up a safety  
11 study and the like, I'm actually producing the  
12 school play this year, and we stay there after  
13 school, there is inadequate coverage in several  
14 school buildings in our community.

15 MS. TAYLOR: In Cortlandt?

16 MR. XAVIER: I'm hoping that this  
17 application, one of the reasons --

18 MS. DECKER: Yes.

19 MR. XAVIER: -- I'm so proud to bring  
20 this application is that this application, based  
21 on all the RF propagation has been provided is  
22 going to enhance coverage of the Blue Mountain  
23 Middle School and that area, which was one of my  
24 original focuses. When my kids were a little bit

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2 younger, they did sports squirts out the field  
3 and even in the fields, you don't have good  
4 service right now.

5 At Lincoln Titus Elementary School  
6 specifically, even while I'm waiting outside to  
7 get my children, you may be able to make a call,  
8 I wouldn't call it reliable, but there's no  
9 internet. But inside the building itself, there's  
10 not just one bar, which we can get into what bars  
11 mean, but there's zero coverage. And people say  
12 oh, well, just use Wi-Fi. You don't have access  
13 as a parent to Wi-Fi in these buildings without  
14 their permission. Not to mention that everybody  
15 needs to activate Wi-Fi calling on their phones  
16 and most people don't even know they need to do  
17 that.

18 There's inadequate coverage in much of  
19 Cortlandt. It's largely due to the topography.  
20 It's very complicated topography and this  
21 technology is based on line of site. So I tend to  
22 take it as my personal mission to try to find  
23 acceptable ways for the community in areas as far  
24 away from residential areas as possible to cover.

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2 But the biggest area in need right now is the  
3 southeastern portion of the town, which is  
4 basically just all residential.

5 So finding situations like this where we  
6 can kind of cover from the outside in and focus  
7 on enhancing reliability to the coverage within  
8 the schools is paramount. And this application  
9 does do that and I hope to be before you over the  
10 next several years with more, because I've lived  
11 here for ten years, I intend to live here much  
12 longer, I love my little home. And in order to do  
13 that, my kids need to be safe. And I want to  
14 focus with the schools for one, but then for  
15 everybody else commuting in the area as well.

16 MR. BIANCHI: I can attest, I'm not too  
17 far away from Montrose Station Road and my area  
18 is very poor in terms of reception. But I'm going  
19 to be objective about this.

20 MR. XAVIER: Absolutely.

21 MR. BIANCHI: I want better reception  
22 though.

23 MR. XAVIER: We'll provide all the  
24 reports and we'll work with Mr. Musso in order to

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2 answer any questions he has and we would just  
3 like to get this before the public, ideally  
4 before the MOD hits your public hearing agendas,  
5 so I look forward to working with you. Thank you.

6 MS. TAYLOR: Alrightie. So I want to  
7 make sure we did -- did we, I don't think we did,  
8 on the question? I don't think so.

9 MR. KEHOE: We voted.

10 MR. KIMMERLING: Yeah, I think we did.

11 MS. TAYLOR: You did?

12 MR. KIMMERLING: We did.

13 MR. ROTHFEDER: Yeah, he came back after  
14 we --

15 MS. TAYLOR: Oh, that was it, very good.

16 MR. ROTHFEDER: Yep.

17 MS. TAYLOR: Finally, we hae an item  
18 under old business, the referral from the town  
19 board of the FGEIS/FEIS and MOD local law for the  
20 proposed Medical Oriented District located on  
21 Route 202 in the vicinity of the New York  
22 Presbyterian/Hudson Valley Hospital Center.

23 MR. KEHOE: So we cleared this all up at  
24 the work session.



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2 MS. TAYLOR: Yeah. I think so.

3 MR. KEHOE: Just so it's on the record,  
4 the board did discuss the MOD extensively at the  
5 work session with Michelle Robbins from my  
6 office. I think at least one member of the board  
7 did watch the MOD public hearing in front of the  
8 town board last night. The town board did close  
9 their public hearing on the MOD. They kept the  
10 comment period open for 20 days. We did go over  
11 the planning board's memo from a couple of years  
12 ago on the DEIS.

13 The board did raise some issues with  
14 respect to how medical the medical district is,  
15 the number of residential units, concerns about  
16 parking, and among a variety of other issues,  
17 staff will draft a memo and get it back to the  
18 planning board within the allotted time. We'll  
19 have to do this via e-mail back and forth because  
20 there won't be a meeting and we'll get that to  
21 the town board within the 20 days.

22 MR. FOLEY: And the question we had on  
23 traffic and then, you know, the new light and all  
24 that I think Tom brought up. And I had brought up

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2 the historical, both those homes, but that's  
3 undoable. So everything we said basically at the  
4 work session, you'll cover.

5 MR. KEHOE: To the best of my ability.

6 MR. KIMMERLING: That's all we can ask  
7 for.

8 MR. KESSLER: Right. Madam Chair, I move  
9 that we refer this back to staff for them to  
10 prepare the memorandum to the town board with our  
11 concerns and issues regarding MOD.

12 MS. TAYLOR: Very good, thank you. Do I  
13 have a second?

14 MR. ROTHFEDER: Second.

15 MR. FOLEY: Second.

16 MS. TAYLOR: Thank you.

17 MR. KIMMERLING: Just on the question.

18 MS. TAYLOR: Yes?

19 MR. KIMMERLING: Are we on the question,  
20 sorry. We can still submit comments to you by by  
21 e-mail prior to your developing the memo?

22 MR. KEHOE: Sure, yeah.

23 MR. KIMMERLING: When do you need those  
24 by? I know we have 20 days to submit that memo,

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2 but -- end of the week?

3 MR. KEHOE: Sure, yeah.

4 MR. KIMMERLING: Okay. Great.

5 MS. TAYLOR: I'm not sure I'm following  
6 you.

7 MR. KIMMERLING: The memo is due in 20  
8 days after the board meeting.

9 MS. TAYLOR: Yeah.

10 MR. KEHOE: George may have more  
11 comments that he wants to get to me for me to  
12 consider.

13 MR. KIMMERLING: But if we want to watch  
14 the recording of the town board meeting and then  
15 offer additional comments.

16 MS. TAYLOR: Oh, I see what you're  
17 getting at, okay, very good.

18 MR. KIMMERLING: I just wanted to know  
19 what that window was.

20 MS. TAYLOR: Alright.

21 MR. KIMMERLING: Thank you.

22 MS. TAYLOR: So, we were on the  
23 question, please. All in favor?

24 MULTIPLE: Aye.

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2 MS. TAYLOR: Opposed? Very good.

3 MR. KEHOE: Okay. Just note, the last  
4 item on the agenda, the engineer is going to Zoom  
5 in, which is the first time that -- I thought  
6 there was, because I know you're not here for the  
7 cell tower. But anyway, he just posted that he's  
8 going to Zoom in, so he's going to be appearing  
9 on the screen.

10 MS. DECKER: It's a brave new world.

11 MS. TAYLOR: Well, let me just identify  
12 what we're doing. This new business portion of  
13 the agenda, and there's only just one item, PB  
14 2022-5, the application of Crown Castle USA, Inc.  
15 for site development plan approval and a special  
16 permit for a co-location for Dish Wireless on an  
17 existing cell tower located at 3105 East Main  
18 Street, the Cortlandt Town Center, latest revised  
19 drawings November 5, 2021.

20 MR. KEHOE: Mr. Gladd, can you hear us?

21 MR. ALEC GLADD: Yes, can you hear me?

22 MR. KEHOE: Yes.

23 MR. GLADD: Okay. Thank you. My name is  
24 Alec Gladd. I'm an attorney at the law firm of

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2 Cutty+Feder and we're the local land use counsel  
3 for Crown and Dish at the site. I apologize for  
4 not being there in person with you. When I looked  
5 at the agenda, I took it as a Zoom only meeting,  
6 but if this continues, I'll be sure to show up in  
7 person.

8 MR. KEHOE: Well, you don't have to. I  
9 mean there are hybrid meetings, so you can appear  
10 remotely, but if you'd like to come here, you're  
11 more than welcome to.

12 MR. GLADD: Yeah, absolutely. So I was  
13 just going to start with a brief overview of what  
14 we're looking to do here, if that's okay. So Dish  
15 is proposing to co-locate three antennae at a  
16 height of 79 feet on the existing 140 foot  
17 monopole located at the back of the Cortlandt  
18 Town Center, so specifically, this is the area  
19 located behind the supermarket. And also the  
20 proposal includes supportive ground equipment,  
21 such as the standard equipment cabinet and  
22 emergency backup battery pack, which will be  
23 placed within the bounds of the existing fenced  
24 compound at the base of the tower, so in sum no

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2 expansion of the fenced compound is required, nor  
3 is a height extension to the tower being  
4 proposed.

5 And Dish is a new wireless carrier as  
6 part of Sprint and T-Mobile's merger, the U.S.  
7 government awarded Sprint's licenses to Dish to  
8 maintain a fourth carrier in the market, and Dish  
9 is currently in the process of building out its  
10 network.

11 So we had a pretty simple and  
12 streamlined application since this is a  
13 relatively small proposal, but importantly of  
14 note, we provided a passing structural analysis,  
15 which means that the antennae can be mounted  
16 safely to the existing tower and we also provided  
17 a passing RF emissions report. And this looked  
18 not at just the RF from Dish's proposed three  
19 antennae, but also the cumulative impact of the  
20 two other carriers on the tower, and it's well  
21 below the maximum permitted exposure levels set  
22 by the FCC, in fact it's less than one percent  
23 for all the carriers.

24 So that's basically the rundown of our

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2 proposal and I'm happy to answer any questions.

3 MR. KEHOE: Similar to the discussion  
4 you might have heard on the other tower, which is  
5 a new tower, not a co-location, but we have  
6 retained HDR as our outside telecommunications  
7 consultant and we do have a consulting engineer.  
8 This one's a little further along and just today  
9 I did receive the draft memo from HDR. I didn't  
10 want to complicate things by distributing it, but  
11 in the next day or two, Mr. Musso will finalize  
12 his technical memo and we'll send it to you. Mr.  
13 Fusillo, our consulting engineer, may generate a  
14 memo if there are any engineering concerns and  
15 we'll get those to you as soon as possible for  
16 you to appear at the next meeting.

17 MR. GLADD: Sounds good.

18 MS. TAYLOR: Alright. Are there any  
19 questions from the board?

20 MR. FOLEY: No.

21 MS. TAYLOR: Alright.

22 MS. DECKER: Motion to refer back to  
23 staff.

24 MR. BIANCHI: Second.

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MS. TAYLOR: Thank you. On the question?  
All in favor?

MULTIPLE: Aye.

MS. TAYLOR: Opposed? Alright. So, now.

MS. DECKER: We're adjourned at 8:23  
p.m.

(The public board meeting concluded at  
8:23 p.m.)



CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the board meeting of the Town of Cortlandt on May 3, 2022 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



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Date: June 9, 2022

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