

TOWN OF CORTLANDT  
PLANNING AND ZONING BOARDS

ZONING BOARD MEETING  
Hudson Ridge Wellness Center Area Variance

Town Hall  
1 Heady Street  
Cortlandt Manor, New York 10567

June 27, 2022  
7:00 - 8:50 p.m.

June 27, 2022

MEMBERS PRESENT:

David S. Douglas, Chairman

Wai Man Chin, Vice-Chairman

Adrian C. Hunte, Member

Benito Martinez, Member

1 June 27, 2022

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

3 MR. DAVID DOUGLAS: Allegiance.

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

9 MR. DOUGLAS: Mr. Kehoe, call the roll,  
10 please.

11 MR. CHRIS KEHOE: Mr. Martinez?

12 MR. BENITO MARTINEZ: Here.

13 MR. KEHOE: Mr. Chin?

14 MR. WAI MAN CHIN: Here.

15 MR. KEHOE: Mr. Douglas?

16 MR. DOUGLAS: Here.

17 MR. KEHOE: Ms. Hunte?

18 MS. ADRIAN C. HUNTE: Here.

19 MR. KEHOE: Mr. Wood?

20 MR. THOMAS WOOD: Here.

21 MR. KEHOE: Mr. Beloff, Mr. Franco and  
22 Mr. Walsh are noted as recused on this case and  
23 are not here.

24 MR. DOUGLAS: Okay. The first item on

1 June 27, 2022

2 the agenda is the adoption of the minutes for  
3 April. Motion?

4 MR. CHIN: So moved.

5 MS. HUNTE: Second.

6 MR. DOUGLAS: Okay. All in favor?

7 MULTIPLE: Aye.

8 MR. DOUGLAS: Any opposed? Okay, the  
9 minutes for April 5, 2022 are adopted. Okay. We  
10 have one public hearing on for today. It's case  
11 number 2016-24, application of Hudson Ridge  
12 Wellness Center, Inc., for a variance for the  
13 requirement that a hospital in a residential  
14 district must have frontage on a state road for  
15 property located at 2016 Quaker Ridge Road. Mr.  
16 Davis?

17 MR. BOB DAVIS: Good evening, I'm Bob  
18 Davis, attorney for the applicant. As you know,  
19 we're here tonight for the board's public hearing  
20 on this application. Since the April 25th  
21 meeting, we've provided you with a copy of the  
22 outline of my presentation at that meeting of the  
23 substantial support for the area variance for  
24 which we're applying. And then on June 14th, we

1 June 27, 2022

2 provided you with a letter that summarized the  
3 significant legal effect of the planning board's  
4 negative declaration under SEQRA with its 34  
5 agreed conditions on the proceedings before this  
6 board.

7 You also have the planning board record  
8 of course, which includes the most pertinent  
9 recent submissions the volumes we submitted on  
10 February 22nd and March 4th, and of course you  
11 have the neg dec itself as well.

12 As there's already been as you well  
13 know, substantial public hearings on this matter  
14 and a huge amount of public input before both  
15 this board and the planning board over the course  
16 of the last seven years at this point. We would  
17 ask that once the public has heard yet again  
18 tonight, respectfully that you close the public  
19 hearing and we would ask also in lieu of our  
20 trying to respond to every item that might be  
21 raised tonight orally, to afford the applicant a  
22 brief period of time before the next session on  
23 July 25th to respond in writing if necessary or  
24 appropriate to any of the comments raised

1 June 27, 2022

2 tonight, perhaps to July 15th or something along  
3 those lines. And then of course, we would ask  
4 that the board, at its July 25th meeting, render  
5 its determination on the application. So that's  
6 all we have for you tonight, having given a  
7 rather comprehensive presentation at the last  
8 meeting, so I thank you.

9 MR. DOUGLAS: Thank you. Does anybody  
10 else wish to be heard? Okay, Mr. Schwartz.

11 MR. BRAD SCHWARTZ: Good evening, Mr.  
12 Chairman and members of the board, staff. Just  
13 for the record, Brad Schwartz from the law firm  
14 of Zarin & Steinmetz and we represent CRHISD. We  
15 have a PowerPoint presentation that I sent to Mr.  
16 Kehoe, so I'll just wait for him to put that up.  
17 Chris, you can turn right to page two. And I'm  
18 not controlling this tonight, so I'm going to  
19 rely on Chris to follow along and hopefully I  
20 keep him awake.

21 MR. KEHOE: Okay.

22 MR. SCHWARTZ: So, so, first. So you  
23 might be asking yourselves why am I here tonight,  
24 why is our client group here tonight. You know,

1 June 27, 2022

2 I'm aware that there's been some misperception  
3 out there that the applicant had reached an  
4 agreement with CRHISD, with our client group,  
5 about all the conditions that were attached to  
6 the planning board's condition negative  
7 declaration. And yes, we were in communications  
8 with the applicant about those conditions. But at  
9 no time were those ever meant or intended to be a  
10 comprehensive settlement where there were  
11 releases and promises or commitments not to  
12 continue opposing the project.

13 I don't want to get into the details,  
14 but I could say that at one point, we were  
15 thinking that we might be on a path toward that  
16 end, but that didn't come to fruition so most  
17 folks within CRHISD viewed those conditions  
18 again, not as a comprehensive settlement but  
19 rather like worst case protections, right. Should  
20 this project somehow get through your board and  
21 then a variance, and then ultimately through  
22 OASAS, then there was something in place that  
23 could at least soften the impacts a little bit.

24 But it was never meant to be a green

1 June 27, 2022

2 light of any kind or a blessing for the applicant  
3 to go ahead with the project. The applicant was  
4 aware of that, so any comments agreements with  
5 CRHISD, just not accurate.

6 In terms of some of the procedural right  
7 up front, we would ask that your board schedule a  
8 site visit, not just to the applicant's site, but  
9 come to the CRHISD's homeowners' properties,  
10 visit their homes, visit their yards. Also, drive  
11 around the area. Get a feel of Quaker Ridge Road  
12 and the neighborhood. So much of what I'm going  
13 to talk about tonight is about community  
14 character, so if you don't already know it, go  
15 drive the roads. But more importantly, the  
16 invitation is open to come to our client's  
17 properties. The planning board did it. We thought  
18 it was helpful. It was cordial. So come out and  
19 the invitation is open and either through Mr.  
20 Wood or Mr. Kehoe, we can make arrangements if  
21 your board will be willing to do that, but we ask  
22 the board to please go ahead and do it. We think  
23 it would be helpful as part of your  
24 deliberations.

1 June 27, 2022

2 In terms of next steps, I heard Mr.  
3 Davis' request obviously for your board to close  
4 tonight and allow a written comment period. We  
5 did not purposely, right, we chose not to submit  
6 a written letter in advance of tonight. We were  
7 hoping to avoid all the back and forth letter  
8 writing that transpired during the last time we  
9 were before you on the hospital issue. So, we  
10 would ask whenever the board closes the hearing,  
11 whether it's tonight, in July, I think there are  
12 some folks that thought some people may be away  
13 already for July 4th, but whenever your board  
14 chooses to close the hearing, we would ask for a  
15 written comment period to follow and I'm  
16 hopefully that it would just be one letter from  
17 us memorializing our written comments, so I would  
18 ask you to take that into consideration.

19 So, the main theme, again, you're going  
20 to hear from us tonight I think so of all my  
21 comments could be characterized as does this use  
22 belong at this location on a local road, right.  
23 The town board doesn't think so. The town board  
24 adopted zoning that requires these types of

1 June 27, 2022

2 hospitals in residential districts on state roads  
3 only.

4 So I'm going to focus a lot about the  
5 community character factor of your five factor  
6 variance test, as well as some other factors as  
7 well. But first, I want to address a legal issue  
8 that the applicant has put into dispute and that  
9 is the significance or the meaning of the  
10 planning board's conditional negative  
11 declaration.

12 It does not control the outcome of this  
13 proceeding. Your board is not bound at all,  
14 substantively, right, on your decision by the  
15 board's neg dec. It doesn't tie your hands, it  
16 doesn't bind you, it doesn't predetermine the  
17 outcome here. Now, I want to point you to two  
18 sentences in the condition neg dec in particular,  
19 I think that are very relevant, that speak to  
20 this issue. But look at this second sentence.  
21 Again, this is in the planning board's neg dec,  
22 page six. "However, it should be clear that the  
23 planning board's environmental review and  
24 negative declaration does not in any way

1 June 27, 2022

2 prejudice or preclude the zoning board's required  
3 analysis of this community character factor." I  
4 put community character in brackets because this  
5 sentence appears under the community character  
6 section in the neg dec. So the planning board was  
7 crystal clear in its neg dec that it was in no  
8 way tying your board's hands. And this was  
9 perfectly acceptable. I'm going to get into some  
10 of the case law, unfortunately, so just bear with  
11 me.

12 So I'm going to keep, keep this at  
13 30,000 feet for a moment, right. What are some of  
14 the basic principles that we can glean from the  
15 applicable case law? First is that again, a neg  
16 dec does not control your decision. You still  
17 have full discretion when applying your five  
18 factor balancing test. So you may ask yourself  
19 well then, what's a negative declaration all  
20 about, right. If it doesn't bind us, then what's  
21 its meaning?

22 The planning board found that there were  
23 no impacts that rose to the level of  
24 significance, right, that required an EIS, right.

1 June 27, 2022

2 Under SEQRA, neg dec, pos dec, pos dec is  
3 required when there's the potential for  
4 significant adverse impact. That's the SEQRA  
5 standard, a very different than your board's five  
6 factor variance test, right. An impact may not be  
7 significant that gives rise to an EIS, but it  
8 doesn't mean it's not an impact. It doesn't mean  
9 there's not an impact that your board can find  
10 that justifies denying a various.

11 So I want you to keep in mind and  
12 distinguish between an impact that's so  
13 significant that it requires an EIS versus an  
14 impact that can lead to a denial of a variance  
15 request. Again, just because it's not significant  
16 enough to give rise to an EIS doesn't mean  
17 there's no impacts.

18 So, if your board was to find that  
19 there's an impact again that justifies denial,  
20 the way to memorialize that lawfully is to  
21 explain your rationale in your resolution, right,  
22 explain why you're finding that there's an impact  
23 that justifies denial of the variance, albeit not  
24 significant for an EIS, right. Just like any of

1 June 27, 2022

2 the determination, it's the rational basis test.  
3 So as long as you explain your findings, explain  
4 your rationale, that's what your board needs to  
5 do, explain why you're finding there's an impact  
6 that warrants the denial.

7 Obviously, your board cannot base your  
8 decision on generalized unsubstantiated community  
9 opposition. I'm sure the applicant is going to  
10 say that's what we're all about, right, it's all  
11 NIMBYism. I will tell you, we're about to show  
12 you some maps that I think are important and  
13 there's also case law that says that testimony  
14 from neighbors who live in the area, based on  
15 personal observations, is sufficient to count as  
16 testimony and evidence that your board can rely  
17 upon does not fall within the precluded category  
18 of generalized opposition.

19 When the applicant's counsel's letter  
20 talks about neg dec's binding your board, right,  
21 again, this is all according to process, planning  
22 board was lead agency, your board is an involved  
23 agency. Binding means your board can't go and  
24 issue a pos dec and do your own SEQRA, right.

1 June 27, 2022

2 You're bound in the sense that SEQRA is  
3 completed, right. The planning board chose to  
4 issue the neg dec, you now can't issue a pos dec  
5 and go scoping a document and start an EIS  
6 process.

7 It also means your board has to rely  
8 upon the record that the planning board compiled,  
9 right. I couldn't submit to you a new traffic  
10 study tonight that the planning board didn't  
11 consider. So that's what you're bound by. You're  
12 not bound in any way by a decision and you're not  
13 -- that's it. I'm sort of being redundant now,  
14 but I've been -- that's the legal standards.

15 MR. DOUGLAS: Can I ask a question?

16 MR. SCHWARTZ: Sure.

17 MR. DOUGLAS: Are you saying that we can  
18 or cannot look into some of the factual findings  
19 they made? Are we bound by -- put aside the  
20 finding of a neg dec. What about the specific  
21 factual findings that might have impact on the  
22 five factors?

23 MR. SCHWARTZ: Absolutely. Just like you  
24 could hear evidence from the applicant, evidence

1 June 27, 2022

2 from us or testimony from us and whatever the  
3 planning board found, you could certainly use  
4 that as part of your deliberations and whatever,  
5 however you shake out, you just need to explain  
6 that rationale in your decision. But you're not  
7 bound in any way, you're not tied. We're not here  
8 as just a pro forma rubber stamp.

9 MR. DOUGLAS: Okay. So, [unintelligible]  
10 [00:13:01] I don't have the planning board  
11 decision in front of me, but, you know, let's say  
12 for instance, they said there's no impact,  
13 substantial impact regarding traffic.

14 MR. SCHWARTZ: Hmm?

15 MR. DOUGLAS: Are you saying that we are  
16 -- that we can -- I'm not trying to be -- it's  
17 just a second guess, but I'm not trying to put a  
18 positive or negative spin on it.

19 MR. SCHWARTZ: Mm-hmm.

20 MR. DOUGLAS: Are you saying that we can  
21 second guess that finding or are we bound by that  
22 factual determination?

23 MR. SCHWARTZ: So, you wouldn't be bound  
24 by it to find that there's a traffic impact that

1 June 27, 2022

2 might relate to community character, right, or  
3 the fourth factor under your balancing test. You  
4 couldn't find, oh, there's a traffic impact  
5 that's going to impact level of service or  
6 queuing that your board, planning board, you  
7 should have issued an EIS, a pos dec or a  
8 [unintelligible] [00:13:47] EIS based upon that,  
9 right. So, so, you're not going to dispute that  
10 there wasn't a traffic impact that didn't give  
11 rise to a significant impact. But it doesn't mean  
12 that you can't find that there were traffic  
13 related impacts that justified denying the  
14 variance. Those are two separate standards,  
15 there's the SEQRA significant standard, and then  
16 just an impact under your five factor variance  
17 standard.

18 And with respect to community character  
19 in particular, again, that's where that language  
20 came from, that the planning board's neg dec does  
21 not in any way preclude or prejudice the zoning  
22 board's analysis of this factor. That factor  
23 wasn't traffic, right, it wasn't storm water.  
24 This factor was number five, in the neg dec, on

1 June 27, 2022

2 page five, consistency with community plan and  
3 community character. So that factor in  
4 particular, the planning board said leave it up  
5 to the zoning board, okay.

6 So those legal principles that I just  
7 went through do come from case law. Here's a  
8 Second Department case, Chadwick Gardens, that  
9 the applicant did not cite, clear as day, neg dec  
10 under SEQRA with respect to a development is not  
11 dispositive on a zoning board's variance  
12 determination. In that case, there was an area  
13 variance for an apartment building, only 23 were  
14 allowed, the applicants want 32, the zoning board  
15 issues a neg dec, then the same board that issued  
16 the neg dec denied the variance request.

17 MLB v. Schmidt, Third Department, a  
18 planning board issues a neg dec, finding no storm  
19 water concerns that again rise to the level of  
20 significance to require an EIS, but then goes  
21 ahead and denies a three-lot subdivision based on  
22 storm water and flooding concerns. So then the  
23 same lead agency issues a neg dec and then denies  
24 the underlying three-lot subdivision application.

1 June 27, 2022

2 I illustrate this because again, it's not unheard  
3 of that there's a neg dec for SEQRA purposes then  
4 the underlying application may go a different  
5 way. And I'll provide all this in my written  
6 comments. I'm not expecting you to -- but I just  
7 wanted to highlight some of the key quotes from  
8 these cases.

9 Here's a case that the applicant did  
10 cite in the letter, Troy Sand, it's a Third  
11 Department case. This is a little bit different  
12 because this was an EIS, so a SEQRA finding  
13 statement resulted at the end, not a neg dec, but  
14 it's a similar concept. The, the findings  
15 statement in the EIS again didn't bind the zoning  
16 board.

17 And in Simon v. Englert, at the bottom  
18 of the page, Second Department, the ZBA did not  
19 explain its departure from the planning board  
20 determinations. So in that case, the court  
21 overturned a variance denial that followed a  
22 planning board's neg dec, because in that case,  
23 the zoning board really didn't explain its  
24 rationale, didn't explain why it deviated from

1 June 27, 2022

2 the neg dec.

3 So that's why I said earlier your board  
4 is free to exercise your discretion, feel free to  
5 deny the variance, but if you're going to do it,  
6 explain your rationale, that's all you need to do  
7 to avoid a finding of no rational basis.

8 Back to Chadwick Gardens, so again here,  
9 the generalized community opposition and in that  
10 case, the applicant had, based on maps that were  
11 submitted, like the maps we're about to show you,  
12 that the neighbors had submitted the court found  
13 that that was sufficient evidence and was not  
14 community, generalized community opposition.

15 So just like the maps in Chadwick, we're  
16 about to show you some maps that are part of our  
17 evidence as to why the community character factor  
18 in particular weighs in favor of denying this  
19 various request.

20 And then Gordon v. Rush addresses the,  
21 the standard about your board cannot go and  
22 conduct your SEQRA review following another  
23 board's positive declaration. In that case, DEC  
24 issued a neg dec and the local agency wanted to

1 June 27, 2022

2 issue an pos dec to an EIS and the court said you  
3 can't do that. And I'm not suggesting that's what  
4 your board wants to do, again, that's all your  
5 board is really bound by.

6 MS. HUNTE: Mr. Schwartz, could you just  
7 distinguish this second paragraph, since the  
8 board was bound by the DEC's neg dec, it acted  
9 outside the scope of its authority when it  
10 decided to conduct its own SEQRA review and issue  
11 a positive dec?

12 MR. SCHWARTZ: Right, so for example,  
13 Ms. Hunte, if your board wanted to now issue a  
14 pos dec and require the applicant to conduct an  
15 EIS process, you couldn't do that. You're again,  
16 you're bound by the fact that the planning board  
17 completed SEQRA by issuing a neg dec, but you're  
18 not bound on your determination, on the outcome  
19 of your process.

20 MR. HUNTE: Then why are you saying  
21 we're bound by the SEQRA --

22 MR. SCHWARTZ: You can't make a  
23 different SEQRA determination, right. You cannot  
24 now issue a pos dec.

1 June 27, 2022

2 MS. HUNTE: Understood. I'm just  
3 question that first section, since the board was  
4 bound by the DEC's negative declaration.

5 MR. SCHWARTZ: Right. So it acted  
6 outside the scope of its authority when it  
7 decided to conduct its own SEQRA and issue a pos  
8 dec. No one is asking your board to issue a pos  
9 dec. All the cases I just shared on the previous  
10 slides again, are instances where a zoning  
11 board's denial of a variance or a planning  
12 board's denial of a subdivision can lawfully  
13 follow the issuance of a negative declaration  
14 because it's two separate issues. One is SEQRA  
15 and then one is zoning board applying the five  
16 factor variance test, a planning board applying a  
17 site plan rules and regulations, a planning board  
18 applying subdivision rules and regulations, the  
19 SEQRA determination on the one hand doesn't again  
20 control the outcome of the underlying land use  
21 application.

22 And there are cases, Ms. Hunte, where  
23 the same lead agency issues the neg dec and then  
24 denies the underlying application. That's the

1 June 27, 2022

2 Schmidt case, for example, the Chadwick case. All  
3 you're bound by is a neg dec determination that  
4 you cannot now issue a contrary SEQRA  
5 determination. It does not?

6 MS. HUNTE: Thank you.

7 MR. SCHWARTZ: I wasn't sure if you  
8 shook your head no or not.

9 MS. HUNTE: No. But thank you.

10 MR. SCHWARTZ: Okay. We'll address that  
11 further in our written comments. So, now let's  
12 turn to community character. The town's own  
13 zoning ordinance says residential districts are  
14 intended to be free from uses other than  
15 residential uses, except those compatible and  
16 convenient to the residents. Comp plan uses an  
17 important phrase, sense of place. Community  
18 character reflects a community's sense of place.  
19 What does a sense of place mean? The meaning and  
20 emotion that humans assign to geographic spaces,  
21 right, so meanings, feelings, that individuals  
22 associate with their neighborhood, sense of  
23 place, what one feels in their community. It's  
24 subjective, you can't quantify this. But a sense

1 June 27, 2022

2 of place, that term, comes right from your town's  
3 comprehensive plan. I'm going to come back to  
4 that term quite a bit during this presentation.

5 For further guidance as to what  
6 community character means, we can look to the DEC  
7 SEQRA handbook. Again, another subjective  
8 concept, perceptions, how folks perceive their  
9 community, how people function within which and  
10 perceive their community.

11 SEQRA handbook also guides us that  
12 courts rely on a municipalities comprehensive  
13 plan and zoning as expressions of community  
14 character. So it's not all just subjective  
15 internal feelings. There's some criteria that  
16 determines if it passes the smell test or not.  
17 Let's look to zoning, let's look to the town's  
18 comp plan. I already started with the comp plan  
19 on the sense of place, and now let's look at some  
20 more language. But we'll start with zoning first.

21 So we know that the zoning code  
22 prohibits again, hospitals and residential  
23 districts on local roads. That prohibition is not  
24 all about traffic. Yes, it's certainly traffic

1 June 27, 2022

2 related, and other benefits of being on a state  
3 road, better access for emergency services,  
4 utilities and access to goods and services. But  
5 it's also about preserving community character.

6 This map shows the state roads in the  
7 town and where they're located. And the site is  
8 sort of, the subject site here is at the bottom,  
9 it's off this map.

10 Putting a planning hat on, what this map  
11 tells me is that the town intended for hospitals  
12 to not be embedded deep within residential  
13 districts. It's got to be on a state road, so  
14 it'd be located on the perimeter, on the  
15 outskirts of a residential district, not deep  
16 within the neighborhood itself. None of these  
17 state roads in the town meander right through a  
18 residential neighborhood. So I think this visual,  
19 I think tells us a lot, right. The state road  
20 requirement is not just about traffic, it's also  
21 about community character. It's a locational  
22 issue.

23 The comp plan also gives us guidance  
24 about what the town intended as far as this

1 June 27, 2022

2 neighborhood's community character, R-80 zoning.  
3 Comp plan for 2016 preserve large lot residential  
4 uses in the R-80 zone, maintain the town's rural  
5 character. Comp plan speaks specifically about  
6 the R-80 zone.

7 And I should mention the state road  
8 requirement itself that was adopted in 2004 was  
9 consistent with the 2004 comp plan that was in  
10 effect at that time. So the comp plan language  
11 talks about protecting and enhancing visual and  
12 community character is critical to making a  
13 community a desirable place to live. And on page  
14 93 in the comp plan, is a lot more language like  
15 that, again, community character, the meanings,  
16 values and feelings that individuals or groups  
17 associate with their neighborhood with a place.  
18 I'm not going to read the entire comp plan, but  
19 page 93 is the community character and visual  
20 quality chapter, chapter seven. Go take a look.

21 So let's look at what is the community  
22 character of this area. And this I think is  
23 hopefully the most influential slide and I think  
24 it sort of epitomizes the adage a picture is

1 June 27, 2022

2 worth 1,000 words. On the left is what this area  
3 looked like in 1947. Outlined in red is the  
4 subject property. The yellow dots represent  
5 individual homes. Compare the left picture, 1947,  
6 mostly farmland, to the right, 2018, rural  
7 residential. Look at the number of homes that are  
8 indicated on the right hand side.

9 This demonstrates that a residential  
10 community, a vibrant residential community, has  
11 grown up and flourished around this site over the  
12 past 50 plus years, certainly since Dr. Lamb  
13 operated his sanitarium in the mid-1900s.

14 The applicant makes a big deal about the  
15 former institutional uses on this site. They  
16 existed, but they've been discontinued for quite  
17 some time. And during that time period, what  
18 happened is a residential community flourished.  
19 So on the left hand side again, farmland back in  
20 the mid-1950s, when the hospital, the former  
21 sanitarium hospital operated on the site, to  
22 today. Hasn't operated in quite some time, in the  
23 meantime, it's now a flourishing residential  
24 neighborhood. Today's community character is

1 June 27, 2022

2 defined by what's on the right hand side of that  
3 slide. And your board, in assessing your  
4 community character factor, has to take that into  
5 account, what is the present day community  
6 character, not what it was back in the 1950s.

7 I would add if that use had continued,  
8 if the institutional uses had continued all this  
9 time, then the applicant I think would have a  
10 grandfathering type argument, but that hasn't  
11 been the case, it's been discontinued. So that's  
12 an important factor the board should consider.

13 I think everyone knows that Quaker Ridge  
14 Road is a scenic road, also part of how the  
15 community defines their sense of place in their  
16 community, they live on, our client group lives  
17 on a scenic road, a town designated scenic road,  
18 no sidewalks, no streetlights. It's a scenic road  
19 used by the homeowners for various recreational  
20 activities, biking, walking, jogging, you name  
21 it. When you hopefully go visit and you'll see  
22 the folks out on the road.

23 So, scenic road, close to the Croton  
24 Aqueduct Trail, and homeowners use it and enjoy

1 June 27, 2022

2 it for its scenic setting. Again, it all, the  
3 scenic designation is part of the fabric of this  
4 community and how the residents define their  
5 sense of place.

6 So as I mentioned at the beginning, you  
7 know, I think the question before you is does  
8 this use belong here. We're focusing on community  
9 character, sense of place. It's not measurable,  
10 it's not quantifiable. Right, we talked about in  
11 the town comp plan, it's about feelings and  
12 perceptions and how one views their community.

13 So again, we acknowledge that the  
14 planning board did not find that items or issue  
15 areas such as traffic and lighting and noise did  
16 not give rise to significance for an EIS, but  
17 does not mean that there's not impacts that the  
18 residents would feel if this use was to be  
19 allowed, right. It's, it's traffic and noise and  
20 lighting that's associated with a non-residential  
21 commercial use, so it's different. Again, may not  
22 be significant for SEQRA purposes, doesn't mean  
23 it's not relevant for your board's variance  
24 analysis.

1 June 27, 2022

2 It would also be a use that would be  
3 exclusive, right, just for the folks that are  
4 there for the treatment. It would not add to the  
5 fabric of the local community. It wouldn't be a  
6 destination for homeowners in the area to  
7 congregate and meet their friends and neighbors.

8 And in preparing for this, what I sort  
9 of, by analogy, I don't know where you all live,  
10 but I live in Dobbs Ferry and right across the  
11 street from me is the Ardsley Country Club Golf  
12 Course, and down the road on State Route 9,  
13 right, is Mercy College, temples, churches. And  
14 then down the road the other way is a local  
15 hospital where I've gone, I've taken my kids for  
16 stitches, right, fall of a bike, that kind of  
17 stuff. Those are all community oriented uses that  
18 I may not belong to each temple and church,  
19 right, or attend Mercy, but I can, right. Myself,  
20 my neighbors, we can take advantage of these  
21 community based, community oriented uses. It's  
22 not a use that's walled off with security fencing  
23 by outsiders, by folks that don't live here,  
24 nonresidents.

1 June 27, 2022

2 Setting aside two beds a month, that's  
3 the only local residents that are going to be  
4 using this facility. So, again, that to me goes  
5 to defining sense of place. Where I live, my  
6 sense of place, I know I have these institutional  
7 uses by me that I can take advantage of if I  
8 want. But I know it's my friends, my neighbors  
9 that are taking advantage of those.

10 So I think that to me anyway sort of  
11 brings it home that this use would not add to the  
12 fabric of this community. It would be an  
13 exclusive use that's meant to be on state roads,  
14 again, not embedded around other residential  
15 homes but on the outskirts of perimeter of  
16 residential districts.

17 Let's move on to other variance factors,  
18 substantiality. This is a 100 percent variance,  
19 effectively asking for new zoning legislation by  
20 way of a zoning board variance. It's effectively  
21 a waiver. That's a big ask that the zoning board  
22 should not make, a 100 percent substantiality  
23 variance.

24 The only one I've gotten in my career

1 June 27, 2022

2 that I can remember was for a basketball court in  
3 a back yard that was along a side property line.  
4 That's the kind of 100 percent variances we tend  
5 to get. A 100 percent is a big ask, a big deal.  
6 Your board is being asked to grant a 100 percent  
7 variance that really amounts to full waiver.  
8 That's effectively legislating by variance.

9 Self-created hardship, the fifth factor  
10 in the test is usually one that gets glassed  
11 over, right. You know, typically you don't pay  
12 much attention to it, it's not dispositive. But  
13 this time, here's an applicant that purchased its  
14 property not contingent upon getting approvals,  
15 purchased the site six years after the state road  
16 requirement was codified. That's, that's  
17 quintessential self-created hardship.

18 Again, we'll respond more fully in  
19 writing, I think these are just some of the  
20 applicant's claims that were in its prior  
21 submission that I'll address briefly, again, as I  
22 mentioned earlier, the applicant keeps trying to  
23 compare this use to historical uses of this site.  
24 That misses the focus. It's not the prior uses

1 June 27, 2022

2 here, it's the surrounding community and again,  
3 the character has changed dramatically since the  
4 1950s.

5 The applicant had, had made an argument  
6 throughout the planning board proceedings that  
7 there were other institutional uses allowed under  
8 zoning for which state road frontage is not  
9 required that would allegedly be more impactful,  
10 such as a school or a governmental office  
11 building. One, who knows what would be more  
12 impactful or not, but again, more importantly,  
13 those kinds of other uses, school, government  
14 building, again, would be part of and feel like  
15 part of the local community, not the proposed use  
16 here.

17 And the applicant also relies on the  
18 yeshiva precedent and we'll again, get into that  
19 more in our written submission, but bottom line  
20 is that yeshiva was already existing at the time  
21 that school came to your board for a zoning  
22 variance and that's the major distinguishing  
23 factor. There were some other unique  
24 circumstances surrounding that application, and

1 June 27, 2022

2 we'll elaborate more on that in our written  
3 letter.

4 So, in conclusion, we ask your board to  
5 deny the variance, not allow it on the local  
6 road, contrary to the town's zoning ordinance as  
7 well as the comp plan, and this would not  
8 constitute generalized opposition. And there's  
9 the case I mentioned earlier, about personal  
10 observations by neighbors are sufficient to raise  
11 serious and legitimate questions about the effect  
12 of the proposed subdivision does not count as  
13 generalized opposition upon which your board  
14 could not base your decision.

15 So for the folks who now come up to the  
16 microphone after me, all that testimony is  
17 perfectly legitimate basis for the board to deny  
18 the variance. So when you look at factors one,  
19 character, factor three, substantiality and  
20 factor five, self-created hardship, at a minimum  
21 those three factors alone weigh against granting  
22 this variance.

23 MR. DOUGLAS: Thank you. I don't want to  
24 cut you off.

1 June 27, 2022

2 MR. SCHWARTZ: I'm done.

3 MR. DOUGLAS: I have just one question  
4 I'm trying to clarify something in mind. Other  
5 than the fact, and again, I'm just, I apologize  
6 for my words making it seem like I'm leaning one  
7 way or the other. I'm not trying to do that.  
8 Other than the mere fact -- I understand  
9 obviously it's a residential district and this is  
10 an institutional use. Other than that mere fact,  
11 what specifically about this proposed project  
12 would negatively impact the character of the  
13 community?

14 MR. SCHWARTZ: I come back to sense of  
15 place, right. I, so, think of where we all live,  
16 we go to each other's back yards and neighbors  
17 for BBQs, socializing, whatever it might be,  
18 right. The other institutional uses by where I  
19 live, I frequent. I go to, I meet my friends  
20 there, I meet, you know, whomever there, right.  
21 Whether it's a religious congregation, or  
22 whatever it might be, it's for the local  
23 community. So the folks, you'll hear from them,  
24 that now their residential neighborhood, where

1 June 27, 2022

2 they kind of know all one another, can socialize  
3 with one another, now there's this kind of use  
4 that's over there that's meant to be on a state  
5 road, right, not imbedded within residential  
6 homes. So you have this institutional use that  
7 no, none of their home -- local homeowners are  
8 going in and out of, right. It's just kind of  
9 there. And their sense of place is a local  
10 neighborhood, right, with their neighbors, with  
11 their friends. So it changes how they feel about  
12 the community, where they live.

13 MR. DOUGLAS: Okay.

14 MR. SCHWARTZ: It comes back to that  
15 sense of place. Mr. Douglas, Mr. Chairman, it's  
16 subjective. I get it. But you can't measure this.  
17 It's not -- you can't do a traffic study, you  
18 can't dig test holes and measure where the water  
19 is.

20 MR. DOUGLAS: Okay. But isn't it true  
21 that there is or at least was a longstanding  
22 other institutional use in that same  
23 neighborhood, the Danish Home?

24 MR. SCHWARTZ: Mm-hmm.

1 June 27, 2022

2 MR. DOUGLAS: I know it closed down last  
3 year. But that's -- what's the difference between  
4 that sort of impact of that sort of institutional  
5 use? Other than of course it was there before the  
6 state road requirement was.

7 MR. SCHWARTZ: That --

8 MR. DOUGLAS: But, right, but it's  
9 there. So it's not, the neighborhood is not  
10 solely residential. There's also Tea Town, which  
11 sort of falls into a separate --

12 MR. SCHWARTZ: And the horse farm that  
13 was there is no longer in operation. And that's  
14 the thing, right. The nonconforming uses, uses  
15 that existed before the state road requirement,  
16 right, the whole idea of nonconforming uses is to  
17 then do away with them, right, come into  
18 conformance with zoning. So just like the yeshiva  
19 was existing at the time, so here's a new  
20 applicant for a new use decades after the last  
21 institutional use was used at this site.

22 MR. DOUGLAS: No, I understand that. But  
23 that's not really what my question's getting at.  
24 I understand the difference in grandfathering it

1 June 27, 2022

2 [unintelligible] [00:36:12].

3 MR. SCHWARTZ: But it's the same thing  
4 for some of those other sites.

5 MR. DOUGLAS: No, but what I'm trying to  
6 pin down or get a better sense of is it seems to  
7 me what you're saying is that an institutional  
8 use in this neighborhood would go against the  
9 sense of place and the character of the  
10 neighborhood. I understand what you're saying.  
11 But I'm also trying to get a handle on the fact  
12 that there already are institutional uses in the  
13 neighborhood. I mean Danish Home, again, it just  
14 closed down, but it was until last year, an  
15 institutional use. And maybe people would say  
16 that undermined the character of the Tea Town  
17 neighborhood. I'm not, I don't, I'm not going to  
18 speak for anybody who lives in the neighborhood.  
19 But I'm trying to get an understanding of that  
20 though.

21 MR. SCHWARTZ: But I think that's right,  
22 right. So the uses that were there, as they stop  
23 operating, then that's it. Like, so the horse  
24 farmer, for example, no longer exists. Danish

1 June 27, 2022

2 Home stopped operating.

3 MR. DOUGLAS: No. Okay. I think you  
4 understand what, what I'm saying.

5 MR. SCHWARTZ: Yeah.

6 MR. DOUGLAS: I understand what you're  
7 saying. But I'm not sure what you're saying  
8 answers my, my question. I'm just, I'm trying to,  
9 other than, I guess, I'm not bothered by it, but  
10 I'm having trouble, sense of place seems to be an  
11 answer to anything, any project, any proposal in  
12 any town that gets proposed, people could say  
13 this goes against the sense of our place.

14 MR. SCHWARTZ: Yeah.

15 MR. DOUGLAS: And that, to me, sounds  
16 like, it sounds like it could be generalized  
17 community opposition. So I'm trying to reconcile  
18 this.

19 MR. SCHWARTZ: Look, I think Mr.  
20 Chairman, it's also the intensity of the use,  
21 right. I mean the town board deemed that this  
22 type of use had to be on a state road for a  
23 reason. The horse farm didn't not need to. So a  
24 hospital, and you know, we dispute whether it's a

1 June 27, 2022

2 hospital, but hospitals are required to be on  
3 state roads, again, not nestled right within the  
4 residential homes.

5 MS. HUNTE: But the court has said that  
6 the zoning board of appeals has the discretion to  
7 issue an area variance. And that's why you come  
8 to this board because notwithstanding the code  
9 says that there are no institutions such as this  
10 on a state road. So I'm questioning also, and not  
11 leaning one way or the other, we're trying to  
12 gather information, sense of place. If there is a  
13 need in the community for such a -- if residents  
14 of this community need to use such a facility,  
15 does this necessarily take away from the sense of  
16 place? Or would this provide some sort of  
17 convenient location as part of sense of place?

18 MR. SCHWARTZ: So you would have to ask  
19 the folks who live in the community. But right  
20 now, the way the project is set up is like two  
21 beds are set aside for local residents.

22 MS. HUNTE: Okay. But asking local  
23 residents, doesn't that go more towards specific  
24 substantiation as opposed to generalized

1 June 27, 2022

2 unsubstantiated statements by the community in  
3 opposition?

4 MR. SCHWARTZ: I think the  
5 substantiation is their testimony. It's their  
6 feelings, right. It's their thoughts, how they  
7 perceive their community and what would transform  
8 their residential community into something other  
9 than a residential neighborhood. So those are,  
10 that is the kind of testimony that you'll hear  
11 next, as to how they feel, how they perceive  
12 their community and that's the kind of evidence  
13 that's not, what the courts have found, is not  
14 generalized community opposition. And again, I  
15 get it, it's tricky because this is all  
16 subjective and not quantifiable. But it's not --  
17 it does not count as generalized community  
18 opposition for folks to make community character  
19 type comments.

20 MR. DOUGLAS: I don't have any further  
21 questions. Does anybody else have any --

22 MR. MARTINEZ: I also have a particular  
23 question. This is the more bigger negative impact  
24 that the community sees that's going to be

1 June 27, 2022

2 affected, the sense of place?

3 MR. SCHWARTZ: I'm sorry, yeah?

4 MR. MARTINEZ: This is the more negative  
5 impact, because I know you keep saying --

6 MR. SCHWARTZ: Yeah, it's community  
7 character. And, look, the lighting, the noise,  
8 the traffic, again, we acknowledge they're not  
9 significant impacts for SEQRA purposes, but these  
10 are, these are institutional lighting,  
11 institutional noise. It's not, it's not the kind  
12 of lighting and noise and traffic associated with  
13 a residential home, but yes, Mr. Martinez, it's  
14 community character, neighborhood character, and  
15 that's the first factor in your variance test,  
16 right. The fourth factor is environmental. So I'm  
17 focused on number one, community character. That,  
18 that is the primary concern.

19 MR. DOUGLAS: Okay. Thank you.

20 MS. HUNTE: Thank you.

21 MR. DOUGLAS: Somebody else want to be  
22 heard? I see a gentleman walking to the podium.

23 MR. MICHAEL SHANNON: Good evening, my  
24 name is Michael Shannon. I live at 2022 Quaker

1 June 27, 2022

2 Ridge Road, which is the property that directly  
3 abuts the applicant's proposed site. Let me first  
4 join in Mr. Schwartz's invitation for all of you  
5 to come see the area that we're talking about. We  
6 talk about an impact on the character of the  
7 community, it's helpful to see the plans that he  
8 put up, or the drawings or pictures that show how  
9 the community has changed in the last 70 years.  
10 But while the pictures may be worth a thousand  
11 words, I suggest walking along Quaker Ridge Road  
12 would be worth a million.

13 It's narrow, it is used for joggers,  
14 bikers. It is often tough to drive in the  
15 opposite direction, especially if a truck is  
16 coming. You have to see it. When I moved to my  
17 home 18 years ago, the first night there, my  
18 daughter said to me, dad, this place needs  
19 lights. Well, that was 18 years ago. We don't  
20 have them. That's one reason we're still here. We  
21 can still look up at the sky at night and see the  
22 stars. We can still look out and see the river  
23 unimpeded.

24 The community is a residential

1 June 27, 2022

2 community. The -- in considering this application  
3 and the opposition to it, I don't want to forget  
4 some things that we covered some years ago. In  
5 November of 2016, I submitted a letter, along  
6 with a number of exhibits. I ask you to go back  
7 to look at that again, rather than repeat  
8 everything that I said before.

9 But I do want to touch on a couple of  
10 things. One of them is the chronology here that  
11 we're talking about. In 1948, I'm pleased to say  
12 before I was born, was the last time this  
13 property was used as a quote, special hospital.  
14 1950 to 2000, the houses that were pictured in  
15 that slide were built. 2010, Kevin Cassidy,  
16 through an LLC, bought the property for \$1.15  
17 million. 2012, Kevin Cassidy's LLC transferred it  
18 to the applicant's LLC, which he also owns, for  
19 no consideration.

20 In that period, from 2010 to 2015, my  
21 wife and I would ask workers who were there doing  
22 certain maintenance or cutting the grass, what's  
23 going on, what's happening here? They wouldn't  
24 answer our questions. In 2015, the applicant

1 June 27, 2022

2 filed with the town the first time, revealing to  
3 the neighbors what its plans were. Yet in 2016,  
4 they had the property listed for sale for over  
5 \$25 million.

6 I want to talk a little bit about the  
7 OASAS requirement. The planning board sort of  
8 punted on it and said when and if the applicant  
9 comes back to the planning board with specific  
10 site details, it will address the question of  
11 OASAS. But that question really needs to be  
12 addressed first. Otherwise, you're dealing in  
13 hypotheticals, absolute hypotheticals. We sit  
14 here and we ask questions like well what's the  
15 traffic going to be like if it's, if this  
16 facility opens with 92 beds or with 52 beds. What  
17 is that going to be like? What, what is the  
18 impact of maybe having a shuttle bus or a van,  
19 take some of the staff at different times. What  
20 about family visits? Are they going to be one  
21 car, two car, three cars coming for each patient?  
22 Are they -- or will they be coming twice a week,  
23 three times a week. What about joint counseling  
24 sessions where family members come and sit in

1 June 27, 2022

2 with the resident patient to get counseling that  
3 might be helpful.

4 The OASAS process is so pivotal here  
5 because it requires as a precondition that any  
6 applicant, at a very early stage, before building  
7 or before incorporating must come to OASAS. The  
8 exact language is, an existing or prospective  
9 provider of substance use disorder services is  
10 required to obtain the prior approval of the  
11 commission of the New York State Office of  
12 Alcoholism and Substance Abuse before  
13 establishing, incorporating and/or constructing a  
14 facility or offering a service.

15 Now, what is this preliminary process?

16 It is not an expensive, drawn out detailed  
17 examination of all the site plans. No. It says  
18 the first step in the certification application  
19 process is for the prospective applicant,  
20 proposed, new or existing providers of chemical  
21 dependent services to contact a local government  
22 unit and the field office in the jurisdiction  
23 where its services are to be performed to arrange  
24 for a discussion of the conceptual basis in the

1 June 27, 2022

2 local government units, I'm sorry, conceptual  
3 basis for the application and its relationship to  
4 the service needs expressed by the local  
5 government unit. There's a prior consultation  
6 form and at the conclusion of these discussions,  
7 the field office and local government unit will  
8 render a recommendation on the applicant's  
9 proposal.

10 For years, we have been saying it's a  
11 problem that this applicant has not gone to  
12 OASAS. For years, the applicant has been saying  
13 basically well, we checked with them, we really  
14 don't have to do that. That is not what I just  
15 read to you. And when we go to --

16 MR. DOUGLAS: Mr. Shannon, can I ask a  
17 question? How does the OASAS procedure, or their  
18 lack of following it, as you were saying, how  
19 does that tie in to the five factors that we're  
20 looking at?

21 MR. SHANNON: Go to specific questions,  
22 like you were asking Mr. Schwartz. What, what is  
23 the impact. You are hearing from Mr. Davis, well  
24 the traffic is going to be limited to this. We're

1 June 27, 2022

2 going to have shuttle vans, we're going to have  
3 52 employees or 52 residents, each one is going  
4 to have this. We say who is the operator, well we  
5 really haven't picked them yet. It would seem  
6 that the operator is the one who is going to say  
7 we need staff on a one-to-one ratio or a 1.5  
8 ratio, we need staff 24 hours a day or during  
9 these hours.

10 Mr. Davis says well maybe they'll do the  
11 family joint consultations by Zoom, that can be  
12 done. He's not the operator. They have said we  
13 will get an operator. Every impact that we talk  
14 about is dependent upon decisions being made by a  
15 person or an entity that they have refused to  
16 disclose.

17 When we talk about the impact, it may be  
18 that the planning board has determined that it's  
19 not in such an environmentally serious problem  
20 that a SEQRA, that a pos dec is required, but  
21 when you come there, you will see the impact to  
22 the character of the community that we will be  
23 having. My backyard is separated by a six-foot  
24 fence from them. They are talking about putting

1 June 27, 2022

2 lighting all over the place. Maybe it's not a  
3 quote SEQRA violation, but it's certainly a  
4 change in the character. They're talking about a  
5 lot more traffic.

6 MS. HUNTE: Mr. Shannon, I don't think  
7 that's what the negative declaration says.

8 MR. SHANNON: I'm sorry?

9 MS. HUNTE: There is specific reference  
10 to spillage, no light spillage and it talks about  
11 no lights after 11:00 p.m. And you think that  
12 your view of the Hudson River is going to to be  
13 impeded by the existence of this location?

14 MR. SHANNON: As, as Mr. Schwartz said,  
15 there are certain things that they put in that  
16 were in discussions between the parties which  
17 were not in any ultimate agreement. No, I don't  
18 think that's enough.

19 MS. HUNTE: I'm not talking about an  
20 agreement, sir. I'm reading the language in this  
21 negative declaration.

22 MR. SHANNON: Right. That is not  
23 something that I, or to my knowledge, any  
24 community member said we agree and that's fine

1 June 27, 2022

2 and now we won't oppose you. No, I still think  
3 they have one of the buildings right next to us  
4 has a light on at night. That illuminates a good  
5 part of the backyard. They're now talking about  
6 all the buildings having lights. They're talking  
7 about having lights in parking facilities right  
8 next to the fence. When, when we go to the  
9 impact, it is better seen and observed by you  
10 attending. But let me just go back to this OASAS  
11 problem for a moment. Not only are you --

12 MR. DOUGLAS: Before you go, before you  
13 go back to OASAS, I don't think you answered my  
14 question. I'm trying to get an answer as to why  
15 the OASAS process, how that bears on the five  
16 factors that we're focused on.

17 MR. SHANNON: Because --

18 MR. DOUGLAS: Let's assume there are  
19 irregularities in the OASAS project. I have no  
20 idea what the process, I have no idea if they  
21 were or they weren't. Let's assume they were. How  
22 does that bear on what we're looking at in terms  
23 of the five factors?

24 MR. SHANNON: You don't have any

1 June 27, 2022

2 recommendation coming before you from any local  
3 government unit or the Department of Mental  
4 Health, which you would receive if they had gone  
5 to the OASAS first. You don't have, you don't  
6 have any indication from OASAS that they concept  
7 that they're talking about, the type of service  
8 that they're talking about, is appropriate to  
9 serve the quote needs of this community. As Mr.  
10 Schwartz pointed out, they're proposing maybe two  
11 beds or scholarships for two people. The OASAS  
12 analysis is a community driven analysis. Their  
13 proposal is a profit driven proposal. The OASAS  
14 communications have indicated that even as of  
15 April of this year, after all we went through  
16 when one of our neighbors contacted them and said  
17 what have you received from the applicant, the  
18 answer was your request seeking documents and  
19 records of OASAS regional office for prior  
20 consultation endorsement, prior consultation form  
21 a new program certification application of  
22 applicant Hudson Ridge Wellness Center and its  
23 affiliates, we have performed a diligent search  
24 for the records you request, but did not locate

1 June 27, 2022

2 any documents that respond to your Freedom of  
3 Information Request.

4 MR. SCHWARTZ: Mr. Chairman, I just want  
5 to see if I can take a stab at answering your  
6 question. I think what Mr. Shannon is trying to  
7 say and I think it is that by going to OASAS, an  
8 operator would need to be identified. And until  
9 an operator is identified, the scope of the  
10 program is not known. So how does it tie to your  
11 five factor analysis? How does your board weigh  
12 impacts, environmental impacts, weigh community  
13 character impacts if the operator is not known.  
14 Therefore the project really isn't defined. And  
15 the planning board kind of understood that as  
16 well, because in their neg dec, on page six, it  
17 has been preliminarily determined, not determined  
18 that there will not be significant adverse impact  
19 pending further approvals from outside agencies  
20 as to the final scope of the proposed program. So  
21 I think that's what you're trying to say, right?  
22 Is that by going to OASAS, that would sort of  
23 flesh out what the project is.

24 MR. DOUGLAS: Okay. So what are you,

1 June 27, 2022

2 what are you suggesting? That we don't issue a  
3 ruling until the whole OASAS project is  
4 completed?

5 MR. SHANNON: I think either that the  
6 application be denied or it be denied without  
7 prejudice pending receipt of a recommendation  
8 from OASAS.

9 MR. DOUGLAS: Okay, so now understood. I  
10 understand. So that's what you're suggesting.  
11 Okay. I understand.

12 MR. SHANNON: Right. Well, not getting  
13 into all of the issues with OASAS, among the  
14 factors that will be presented to OASAS are  
15 things such as the criminal backgrounds of the  
16 individuals, the experience of the individuals  
17 behind the project. Here, I believe the answer is  
18 they have no experience and they do, at least one  
19 of them does have a very troubling criminal  
20 background. They will have to disclose the source  
21 of funds. I don't know if it's really their  
22 intent to go through with this.

23 MS. HUNTE: Sir, you're speculating.

24 MR. SHANNON: They put in the

1 June 27, 2022

2 applications before the planning board and zoning  
3 board.

4 MS. HUNTE: Don't speculate.

5 MR. SHANNON: And they proposed to sell  
6 --

7 MS. HUNTE: You're speculating.

8 MR. SHANNON: I'm sorry?

9 MS. HUNTE: Please don't speculate.  
10 You're speculating. You're proposing, you don't  
11 know what they're planning to do.

12 MR. SHANNON: We all don't know what --

13 MS. HUNTE: You started out with, you  
14 just started, you started this with we're just  
15 dealing with hypotheticals. But we are trying to  
16 deal with the facts --

17 MR. SHANNON: Right.

18 MS. HUNTE: -- as presented.

19 MR. SHANNON: What I'm, what I'm  
20 suggesting --

21 MS. HUNTE: Please stick to those.

22 MR. SHANNON: -- what I'm suggesting is  
23 that we are dealing with speculative information  
24 since we don't have anything, even the concept

1 June 27, 2022

2 approved by OASAS. We don't have the operator and  
3 yet we are trying to wrestle with questions of  
4 specific items that the operator would determine.

5 MS. HUNTE: Okay. If this board should  
6 deny the variance, does the OASAS issue become  
7 moot? Notwithstanding appeal rights, etc. etc.?

8 MS. SHANNON: Does the OASAS -- if  
9 they're not proceeding with an application to  
10 open a facility there, then presumably they would  
11 not go to OASAS. If they decided to open it or to  
12 operate one in one of the medical oriented  
13 districts, then it would go to OASAS. I don't  
14 know what their decision would be if the zoning  
15 board did not approve their application. I'm  
16 sorry. I can't hear you. I see you're shaking  
17 your head, but I can't hear you.

18 MS. HUNTE: That's alright, no, you  
19 proceed.

20 MR. SHANNON: When you go through the  
21 chronology, you see a couple of things that come  
22 into play with your factors. One of them is this  
23 problem is entirely self created.

24 MR. DOUGLAS: Can I ask a question? In

1 June 27, 2022

2 our prior hearings, some of what you're saying  
3 sounds familiar to me. Do we already have this in  
4 the record, from the, from your prior appearances  
5 before the zoning board?

6 MR. SHANNON: Some of it, I know is in  
7 the record.

8 MR. DOUGLAS: Because I mean when you're  
9 talking about the chronology and the operated  
10 [unintelligible] [00:57:32] and what's happened  
11 over the years and going back to your 2016  
12 letter, I just, I'm a big fan of efficiency.

13 MR. SHANNON: Okay.

14 MR. DOUGLAS: If you've already  
15 presented this information to us, it's in the  
16 record, we've got it.

17 MR. SHANNON: Okay. I don't, I know I  
18 did not get into such detail on OASAS before, but  
19 I will wrap it up. The problem is you don't have  
20 the local government unit, you don't have the  
21 Office of Mental Health giving you any  
22 recommendation because it has not received the  
23 most basic information from the applicant about  
24 who an operator might be, or disclosure of the

1 June 27, 2022

2 other information. So you don't know whether they  
3 will get approval or under what conditions they  
4 might get approval. But answers to those  
5 questions really go to the reliability or the  
6 credibility of all of the other things you're  
7 addressing when we talk about traffic, which is  
8 an easy example and shift changes and stuff. All  
9 you really have is an advocate's position on what  
10 the applicant will do. But it will be the  
11 operator that necessarily will be determining  
12 things such as shifts, staff, etc.

13 I don't want to repeat the prior  
14 statements, but I want to renew my invitation  
15 that you come, you come as a group, you come  
16 individually, you can direct that no parties be  
17 present and just look for yourselves. Reference  
18 is made to the horse farm. Yes, that's wonderful.  
19 There's no lights there, there's no traffic going  
20 there. It is a nice thing to look at. That is  
21 part of our sense of community and I hope it  
22 remains that way. You can talk about the Danish  
23 Home and how far away it is, etc. But come there  
24 and look and see how one [unintelligible]

1 June 27, 2022

2 [00:59:28] have anything to do with the other, or  
3 how you can see in our view, how this is a big  
4 change when you've let a large commercial  
5 facility come into a bucolic residential area.  
6 Thank you.

7 MR. DOUGLAS: Mr. Shannon,  
8 notwithstanding my comments about efficiency, I'm  
9 not trying to get you to stop and not say  
10 something. Feel free to say whatever you want to  
11 say, okay. I don't want to be misunderstood, I  
12 just want to streamline this procedure, but go  
13 ahead. I mean if you want, if there's something  
14 else you want to say, you know, feel free to, I'm  
15 not cutting you off.

16 MR. SHANNON: I think I covered the  
17 points and I do trust that, as Mr. Schwartz  
18 requested that there will be written submissions  
19 following whatever time you close the hearings.  
20 Thank you.

21 MR. MARTINEZ: Thank you.

22 MR. DOUGLAS: Okay. There's a gentleman  
23 raising his hand.

24 MR. JAVIER PICAYO: Hi, everyone. My

1 June 27, 2022

2 name is Javier Picayo. I've been a resident at 7  
3 Teatown Road for about 30 years. My family lived  
4 there, I grew up there, and I live there now. So  
5 this, I wrote this whole thing, but I don't think  
6 I'm going to say any of it anymore. I am a  
7 resident of the Teatown community, but I'm also a  
8 sober person. I've been sober for about a decade  
9 and I have volunteered at a lot of these  
10 facilities and I have worked in sober facilities,  
11 so the work of recovery is really near and dear  
12 to my heart. I think it's, you know, the issue  
13 with alcohol and drugs is horrific and I do  
14 believe this kind of work is really important.

15 But I really strongly oppose this  
16 project for a whole bunch of reasons, but I'm not  
17 going to give you the emotional ones, I'm just  
18 going to sort of stick to the conditions you all  
19 are talking about today. And I'll try to keep it  
20 brief. And thank you for letting me speak. Mr.  
21 Douglas, am I allowed to ask a question, or no?  
22 Is that allowed?

23 MR. DOUGLAS: You're allowed. We may not  
24 answer it.

1 June 27, 2022

2 MR. PICAYO: Okay. Well, I guess I was  
3 just wondering in the first condition, it asks  
4 whether an undesirable change will be produced,  
5 and I'm wondering undesirable for who, whom, I  
6 don't know. Is it for whom, or whatever, but who  
7 is it for?

8 MR. DOUGLAS: That was a grammatical  
9 question there?

10 MR. PICAYO: No, no, it wasn't a  
11 grammatical question but I had a grammatical  
12 question as I said it.

13 MR. DOUGLAS: I might be better at the  
14 grammar thing than the substance of zoning laws.

15 MR. PICAYO: That's okay, but I am sort  
16 of curious who is it asking about the unwelcome  
17 change, who does it refer to?

18 MR. DOUGLAS: Well, it's whether there  
19 will be a negative change in the neighborhood  
20 itself and whoever is in the neighborhood.

21 MR. PICAYO: I see. Well, I think what  
22 everybody's been saying, you know, this issue  
23 about lights at night, I only read that 450 page  
24 document that the applicant submitted once. I

1 June 27, 2022

2 couldn't do more than that. But if it's only  
3 until 11:00 o'clock, lights on until 11:00  
4 o'clock is a significant change in the  
5 neighborhood. I mean it's pitch black. The only -  
6 - I don't even think there are any street lights,  
7 maybe one or two, a little bit a way. Are there?  
8 Yeah, there are no street lights. The only light  
9 you see are the stars at night. That's it. And  
10 lights on until 11:00 o'clock at night,  
11 commercial lights, industrial lights, whatever  
12 they are, that is a huge change in the community.  
13 So that, for me, and I imagine for the rest of my  
14 neighbors, is an unwelcome change.

15 The traffic thing, I know that the  
16 planning board declared a -- made a negative  
17 SEQRA declaration, but 120 extra cars on those  
18 roads is a huge change. You asked about the  
19 Danish Home. The Danish Home, there was never  
20 anything near 120 cars on the road. Teatown,  
21 there's nothing near 120 extra cars a day on the  
22 road. That is a huge change. Do you all agree  
23 with that? I mean it's a huge change. We, you  
24 know, there's this thing, like in July and

1 June 27, 2022

2 August, people stand on the side of the road and  
3 pick raspberries and people, you know, go on  
4 hikes and we walk in those roads, 120 extra cars  
5 on the road would be a significant unwelcome  
6 change. And that would change the character of  
7 the community, walking to people's houses,  
8 hanging out outside, that is part of the  
9 community. And you would not be able to do that.

10 I can tell you, I'm not an environmental  
11 specialists, but having been in the community for  
12 30 years, I can tell you that those roads with  
13 120 extra cars are not safe for people to be  
14 walking around. It's just not. Do you all agree?  
15 I keep asking you, because I don't want to be the  
16 only one thinking that. But I really think it is  
17 a dramatic change in the character of the  
18 neighborhood.

19 Also, the applicant's attorney said, has  
20 characterized this community as bucolic, and I, I  
21 know what it means if it's used in a sentence,  
22 but I couldn't give you a definition, so I looked  
23 it up, and what I found was that it's relating to  
24 the pleasant aspects of the countryside and

1 June 27, 2022

2 country life, rustic, pastoral, country style,  
3 pertaining to herdsmen or peasants. That's how  
4 the applicant's attorneys have described our  
5 community. That's what they said? You have a  
6 different definition Mr. Douglas?

7 MR. DOUGLAS: No, no, I assume he's not  
8 trying to insult you as a herdsman or peasant.

9 MR. PICAYO: No, I didn't think that  
10 either. I took it as a compliment. I think  
11 bucolic, I thought it was a compliment. But a  
12 hospital is not bucolic. That is the way they've  
13 characterized our neighborhood, as being bucolic.  
14 A hospital is not bucolic, right. I don't think  
15 there's any question about that. So the very  
16 thing that makes them want to be there would be  
17 changed if this is approved, if this area  
18 variance is granted.

19 To the third condition, right, is it  
20 substantial, a hospital being put on a state  
21 road? I don't think that there's any question  
22 that that is a substantial change, that that's a  
23 substantial request. Setting aside or overlooking  
24 that legislative requirement is significant.

1 June 27, 2022

2 We're not talking about going from 50 feet to 100  
3 feet. Oh, can we have the variance for this many  
4 feet. We're talking about 20 acres of the  
5 Courtlandt property, and the applicants have  
6 always talked about the Newcastle property, which  
7 is another 20 acres, so 40 acres of land being  
8 rezoned for a commercial development. That is,  
9 there's no question that's a substantial change  
10 in a residentially zoned neighborhood. So to me,  
11 those things are very apparent.

12 I won't even get into the fourth  
13 condition because I feel like the environmental  
14 thing, you know, maybe it's not worth speaking  
15 about. But to me, as a member of the community, I  
16 think that the environmental impact is  
17 significant, you know. Maybe I'm conflating  
18 community character and environment. But to me,  
19 being able to walk on the streets, feeling safe,  
20 doing that, all of those things are environmental  
21 concerns.

22 And the last thing I'll just say is I  
23 really think this is a -- we've been fighting  
24 against this thing for seven years. That's a long

1 June 27, 2022

2 time. The applicant has brought up repeatedly  
3 that this has been dragged out and it's been such  
4 a long time and how much money they've had to  
5 pay. Well, we have lived with the constant threat  
6 of this massive development in our small  
7 community for seven, almost eight years. This,  
8 this keeps me up at night. I really think this  
9 would be catastrophic for our neighborhood. And  
10 so, I just ask you to take all of the residents  
11 of Croton who have spoken, of Ossining, of  
12 Newcastle, the, the appointed panels from  
13 Newcastle, the elected officials in Ossining, all  
14 of whom have voiced their concern and opposition  
15 to this project. And, and to take that into  
16 consideration. If anybody knows about community  
17 character, it's us. And we've all shown up  
18 repeatedly, over and over, to oppose it. So I  
19 just hope that you'll come out and visit, if you  
20 haven't been there, see where we live, see what  
21 we're talking about, and I just ask the same  
22 thing we've been asking, please don't grant them  
23 this variance. That's it. Thank you. Do you have  
24 any questions for me? I don't get any.

1 June 27, 2022

2 MS. HUNTE: Thank you.

3 MR. PICAYO: Oh, Ms. Hunte, you had a  
4 question before, can I answer your question from  
5 before, about would we feel good if one of our  
6 neighbors got to go to that facility?

7 MS. HUNTE: I don't know about feel  
8 good, but --

9 MR. PICAYO: Well, would we be  
10 appreciative that there was that service in the  
11 community.

12 MS. HUNTE: Yes.

13 MR. PICAYO: They're talking about  
14 having hundreds of patients a year, right, if  
15 there are 54 beds, hundreds of patients a year.  
16 Two of them, two people are given scholarships  
17 from Cortlandt.

18 MR. DAVIS: [unintelligible] [01:09:09]

19 MR. PICAYO: Oh, it isn't, Mr. Davis?

20 MR. DAVIS: No, [unintelligible]  
21 [01:09:11].

22 MR. PICAYO: Oh, okay. I'm sorry. That,  
23 that's what I had heard. Is it 50 people from  
24 Cortlandt? How many?

1 June 27, 2022

2 MR. DAVIS: It would be as many people  
3 from Cortlandt as want to be a part of the  
4 facility. What we agreed to was [unintelligible]  
5 [01:09:25] --

6 MR. DOUGLAS: Okay. Well, Mr. Davis, why  
7 don't you hold off, because and then you could  
8 address it if you want. Okay.

9 MR. DAVIS: I didn't mean to interrupt.

10 MR. PICAYO: Oh, yeah, sorry. I just  
11 heard you commenting, so I just wanted to --

12 MS. HUNTE: I think it says it's for 92  
13 beds but two beds are set aside for residents of  
14 Cortlandt, however, whatever that means.

15 MR. PICAYO: Yeah. So I mean the  
16 majority is for people --

17 MS. HUNTE: But if there are more  
18 people, more people in Cortlandt who need a bed,  
19 it --

20 MR. PICAYO: Yeah.

21 MS. HUNTE: -- doesn't mean that they  
22 can't go. Is that correct?

23 MR. PICAYO: I don't --

24 UNIDENTIFIED MALE: It's not part of the

1 June 27, 2022

2 [unintelligible] [01:09:51].

3 MR. PICAYO: Okay. It doesn't, well, it  
4 doesn't seem to me like this is a business or a  
5 hospital that really caters to the Cortlandt  
6 community. It doesn't seem that way to me. It  
7 seems like a private business, you know,  
8 whatever. But that, that's all I wanted to say. I  
9 would not feel good about going to a place that  
10 really dramatically changes, and I really think  
11 destroys peoples' homes and neighborhoods and  
12 communities, I wouldn't feel good about that. So  
13 that's it. Thank you for letting me speak.

14 MS. HUNTE: Thank you. Duly noted.

15 MR. PICAYO: Okay. Thank you. [applause]

16 MR. DOUGLAS: Anybody else want to be  
17 heard? I see your hand, but I think the woman  
18 jumped up before you raised your hand. No, no,  
19 you were first. Ma'am, you beat him.

20 MS. JILL GREENSTEIN: I don't think I  
21 can be as persuasive as Javier here. My name is  
22 Jill Greenstein. I reside at 83 Quaker Hill  
23 Drive. My property is adjacent to the proposed  
24 Hudson Ridge Wellness Center. I did write a brief

1 June 27, 2022

2 statement, but I actually wanted also to add some  
3 additional comments. There's been a lot of talk  
4 about the Danish Home. The Danish Home, which has  
5 been there, as we've said, prior to any laws  
6 being enacted by Cortlandt, really provides a  
7 permanent, or did provide a permanent setting for  
8 people. There was not, it was a more intense use.  
9 They weren't people coming and going. And so it  
10 has a very different feel.

11 In addition, this proposal, the model  
12 was not a community based model. The model, as I  
13 understand it is one commercial development to  
14 have people come from all over the United States  
15 to come in with fees. There might be, as you  
16 said, two beds for Cortlandt residents, and I  
17 guess if other Cortlandt residents can afford it,  
18 they might be able to pay as well. But the model  
19 is a very different kind of model than your local  
20 community program. And then that's what the  
21 Danish Home was. For example, we had neighbors  
22 down the road whose mother lived in the Danish  
23 Home. It was very convenient for them. So it was  
24 a whole different feel.

1 June 27, 2022

2 I'm going to try to present facts, as  
3 that's been suggested. And I've been very  
4 interested in what has been said. How do we  
5 perceive community, what's our sense of place.  
6 Well, I think we're very fortunate that the town  
7 is very fortunate to have a beautiful area that  
8 we know as the Teatown community. There are  
9 winding, narrow roads, we've said it. There are  
10 birds, there are deer, there are bunnies, foxes,  
11 bears. We report that on our local  
12 [unintelligible] [01:12:50] network all the time,  
13 turkeys, people walking, biking, enjoying nature,  
14 all in our Teatown community.

15 Zoning laws were put in place, I assume,  
16 for safety, for the very purpose of maintaining  
17 different zones in our overall community. We have  
18 a medical zone where hospitals belong. Why?  
19 because they're on state roads where emergency  
20 vehicles can easily navigate the roads quickly  
21 and safely. Having commercial development, such  
22 as this proposal in the Teatown community will  
23 adversely impact this environmentally sensitive  
24 area.

1 June 27, 2022

2 Everybody has said this, but I can't  
3 urge you enough. If you haven't visited here yet,  
4 please come. I ask you to do that before making  
5 any determination. Come visit our homes, walk on  
6 our streets, see what this area is about. It is a  
7 community, it is a neighborhood where people  
8 watch out for each other. On my particular  
9 streets, children running around, bicycling,  
10 that's the neighborhood that we're living in.

11 In addition, one of the criteria for  
12 determining whether a zoning variance should be  
13 granted states whether the alleged difficulty was  
14 self created. This has been said, but the  
15 applicant should clearly have known that the town  
16 requirements for hospitals to front a state road  
17 was a zoning code, I believe it was adopted in  
18 2004, six years prior to the applicants even  
19 purchase of this property.

20 A much needed substance abuse treatment  
21 center, which I certainly support, it deserves  
22 proper placement, where that people can be safe  
23 and receive good care to overcome their substance  
24 abuse difficulties. And that should be in the

1 June 27, 2022

2 Cortlandt medical oriented district that has a  
3 state road frontage. Anyway, thank you for your  
4 time and consideration. Questions?

5 MR. DOUGLAS: Thank you. No.

6 MS. GREENSTEIN: No? Okay. [applause]

7 MR. DAVID VALDEZ: Hi, everybody. I'm  
8 David Valdez. I am a resident of the Teatown and  
9 the West End area on Glendale Road. I'm also a  
10 member of the Millwood West End Advisory Board,  
11 which is an appointed board from the town of  
12 Newcastle. So we pay very close attention to  
13 matters that tie Chappaqua to this end and  
14 Millwood in zoning and planning and all manner of  
15 things that you consider in zoning and the rest.

16 The Millwood West End Advisory Board did  
17 issue and did really all the research and read  
18 the hundreds and hundreds and hundreds of pages  
19 that have been submitted on this topic over the  
20 years, and issued a very formal opinion that they  
21 absolutely and adamantly opposed the permission  
22 for a hospital on, in this residential area, for  
23 the reasons that a lot of people here have  
24 spoken, mainly how inconsistent a commercial

1 June 27, 2022

2 development and a commercial enterprise in a  
3 purely resident area is completely totally  
4 inconsistent with the area.

5 On a personal basis, it just kind of  
6 surprises me to hear some of the questions from  
7 you on the board as if you don't understand like  
8 what community character is or how it's defined.  
9 I don't know where you live, but if someone  
10 builds a 20-story building behind your  
11 residential home, it's going to change the  
12 character. If you put a snowman in a greenhouse,  
13 it's going to change the nature of the inside of  
14 that.

15 This area of Newcastle and Cortlandt,  
16 quite frankly, because it is over the border,  
17 though what the developer is planning includes a  
18 20-acre site that is on the Newcastle side, which  
19 has conveniently been acting as if that land  
20 doesn't exist and they're not going to do  
21 anything with it, is a very, very, very special  
22 place. It is a unique environment. It is pitch  
23 black at night. There are no signs, as people  
24 said. There's no hospital sign, there's no

1 June 27, 2022

2 ambulances running in and out of the building.  
3 Glendale Road, you can't see your fingers at the  
4 end of your arm after dark all season long. There  
5 are no commercial signs really. Putting a  
6 hospital and a commercial enterprise with their  
7 entrance and their exits and their ambulances and  
8 lighting and parking and 24-hour facility for  
9 patients is absurd. Like it's laughable that this  
10 would be put into this neighborhood. It would be  
11 like, I don't know, putting a carnival in the  
12 middle of Central Park or something, even though  
13 Central Park is very busy, that would still be  
14 inconsistent. A hospital in this neighborhood  
15 would be very inconsistent with the neighborhood  
16 and it would quite frankly destroy it.

17 I've talked to all my neighbors on  
18 Glendale Road and the rest, I don't have  
19 affidavit or anything from them, but I would say  
20 to you that fully half of them are like we'll see  
21 our house, we'll leave, we'll just go, like why  
22 do we want to be here. We're not here for that,  
23 we are avoiding that, and that's what we want to  
24 preserve.

1 June 27, 2022

2 So we hope you will continue to  
3 contribute to the preservation of really a very  
4 special part of Cortlandt and a very special part  
5 of Newcastle. Thank you.

6 MS. HUNTE: Thank you.

7 MR. DOUGLAS: Thank you. [applause]

8 MS. GREENSTEIN: I just wanted to make  
9 the record clear. I am the chairperson of CRHISD.  
10 I forgot to say that, so sorry.

11 MR. DOUGLAS: Any other members of the  
12 public want to be heard tonight? Okay. Chris, is  
13 there anybody on Zoom?

14 MR. KEHOE: Yes. Just for the record,  
15 this is a hybrid meeting. According to what we  
16 see on our screen, there are 15 people in the  
17 waiting room, we don't know if they all want to  
18 speak. So if you would like to speak, please  
19 raise your hand. I think Mr. Kim had his hand up.  
20 I don't know if it's still up. But in whatever  
21 order the hands were raised, Emma will promote  
22 them to be able to speak. And just as people in  
23 the room, just please state you name for the  
24 record.

1 June 27, 2022

2 MR. KEHOE: We promoted, it think it's  
3 probably pronounced Slevin, Mr. Slevin?

4 MR. MICHAEL SLEVIN: Yeah, hello, I live  
5 at 8 Croton Lake Road, which is just off Quaker  
6 Bridge Road. I just wanted to respond to one of  
7 the questions that was asked around how the  
8 character differs with this center versus the  
9 Danish Home or the horse farm. There's the  
10 average stay in a nursing home or assisted living  
11 home is between one and three years. The average  
12 stay in a treatment center, rehabilitation center  
13 is between weeks and months.

14 So when you're talking about a permanent  
15 resident area and the character of that area, and  
16 whether it shapes the character of the area,  
17 having impermanent people joining that community  
18 only on a temporary basis completely transforms  
19 that. And so, and when you think about how it  
20 compares to the horse farm, that's a business  
21 that serves the local character, as been stated  
22 is bucolic. It's a horse farm. So both of those  
23 businesses, I can't -- the comparison doesn't  
24 really hold when you're talking about a center

1 June 27, 2022

2 that is going to have impermanent, short term  
3 residents. It's self-contained, it's not going to  
4 be, you know, this is not a business where people  
5 are going to be using downtown. It's completely  
6 contained onto the property. So it's a completely  
7 different type of institution than the Danish  
8 Home. And so, yeah, I don't think a comparison  
9 is, when you're talk about whether it materially  
10 shapes the character and the feel of the  
11 neighborhood, it's a totally different type of  
12 structure. That's it. Thank you.

13 MR. DOUGLAS: Thank you.

14 MR. KEHOE: The next speaker appears to  
15 be Mr. Kim. And just for the record, Mr. Kim did  
16 submit a letter to the zoning board just today,  
17 so you may not have had time to read it, but I've  
18 provided you all a copy of Mr. Kim's letter.

19 MR. DOUGLAS: Right. We've got the  
20 letter.

21 MR. EDWARD KIM: Good evening, everyone.

22 MR. DOUGLAS: Good evening.

23 MS. HUNTE: Good evening.

24 MR. DOUGLAS: Did we lose him?

1 June 27, 2022

2 MS. HUNTE: Is he muted?

3 MR. KIM: Sorry about that. It's Zoom on  
4 mute, muted me. Again, my name is Edward Kim. I  
5 live on 3 Quaker Hill Court East. And I did  
6 submit a letter to the zoning board earlier  
7 today, so I will not repeat myself tonight, but I  
8 do want to add just one point about the sense of  
9 community and to answer Mr. Douglas' question  
10 around the sense of community earlier. And the  
11 one thing I would like to point about the Danish  
12 Home was that besides having their long term  
13 residents and the residents being connected to  
14 the community where it was more of an open  
15 environment, we had the ability to be able to go  
16 in and out, visit family. Danish Home would host  
17 events, and I believe they used to host Christmas  
18 galas and Christmas parties where the  
19 neighborhood were welcome. Whereas, with Hudson  
20 Ridge, they're proposing a gated facility that's  
21 guarded and not necessarily allowing the  
22 community to come in and visit, but only if they  
23 have, if a patient is there and families can  
24 visit at a certain hour.

1 June 27, 2022

2 So, to me, that does not sound like  
3 Hudson Ridge is going to be part of our community  
4 and having that sense of community, where it is  
5 open and welcoming to everyone. I moved here a  
6 little over five years ago. In the past, five or  
7 six years, just in the Quaker Hill Drive  
8 neighborhood, there have been ten new families  
9 with children, where the past couple of years  
10 during the pandemic, we would all go outside and  
11 watch our kids ride their bikes, mothers, fathers  
12 would be out going for runs, because they  
13 couldn't go to the gyms or health clubs. And then  
14 expand it out into ride their bikes out on to  
15 Quaker Bridge Road and beyond.

16 And as you have seen what Mr. Schwartz  
17 showed of the visual, the aerial photo of back in  
18 1940s versus what it is today, that 20 acres,  
19 imagine what those 20 acres would be if it's not  
20 a commercial development but ten residential  
21 homes with families, where it would tie our  
22 neighborhood on Quaker Hill Drive, with that 20  
23 acre and then going beyond to the Newcastle,  
24 their 28 acres. That would be another ten, 12

1 June 27, 2022

2 homes in that area. It would fully tie in the  
3 whole lower portion of the Teatown area, and it  
4 would connect all of the homes that's on Quaker  
5 Ridge Road with Quaker Hill Drive, Teatown Road  
6 and Glendale. To me, that is the sense of  
7 community that the town had envisioned in its  
8 master plan.

9 And so, you know, I hope that we can,  
10 and have explained the sense of community that is  
11 endeared to us. And that is what I'd like to say  
12 and the rest, you have my letter. Thank you.

13 MR. DOUGLAS: Thank you.

14 MS. HUNTE: Thank you.

15 MR. KEHOE: We do have another person  
16 that has raised their hand and we're promoting  
17 them to speak. I believe that the person speaking  
18 needs to unmute themselves.

19 MR. DOUGLAS: Is that Ms. Wells?

20 MR. KEHOE: I think so.

21 MR. DOUGLAS: Ms. Wells, if that's you,  
22 we can see that you're on mute, so we haven't  
23 heard anything that you've said. So if you could  
24 unmute yourself please.

1 June 27, 2022

2 MR. KEHOE: Okay, so Emma can't unmute  
3 from here. Maybe we can come back.

4 MR. DOUGLAS: Okay.

5 MR. KEHOE: Although when I say we can  
6 come back, no one else has raised their hand to  
7 speak.

8 MR. DOUGLAS: What does the  
9 [unintelligible] [01:12:50] unmute the button? I  
10 was just looking, you're going to drop down one  
11 of those things that asks to unmute?

12 MS. EMMA: Yeah, I've been pressing it.

13 MR. KEHOE: Emma has been pressing it.

14 MR. DOUGLAS: Oh, okay.

15 MR. KEHOE: Okay. We're still having  
16 technical difficulties with Ms. Wells, if indeed  
17 that's Karen.

18 MR. DOUGLAS: Okay. Is there anybody  
19 else on remotely that wants to speak?

20 MR. KEHOE: There are other people in  
21 the room, but no one has raised their hand to  
22 speak.

23 MR. DOUGLAS: Okay.

24 MR. KEHOE: We can give it another

1 June 27, 2022

2 second.

3 MR. DOUGLAS: Yeah, why don't we go  
4 ahead, I know Mr. Davis wants to say something,  
5 why don't we have Mr. Davis come up and if we fix  
6 the situation regarding Ms. Wells, that would be  
7 great.

8 MR. DAVIS: Thank you, Mr. Chairman.  
9 Just a few comments, primarily on Mr. Schwartz'  
10 presentation. It seemed to me there was a lot of,  
11 on at least two major topics, there was a lot of  
12 parsing of words and semantics. With respect to  
13 whether or not there was an agreement with the  
14 homeowners, I'd just like to shed some light on  
15 that. Of course, when you're dealing with a large  
16 group of people in a neighborhood, it's known  
17 from the outset that you're never going to have  
18 an agreement of everyone. You cannot please  
19 everyone, quite literally. But you should be  
20 aware that we started a process back in August of  
21 2021 and it extended up until the very day of the  
22 planning board's April 5th meeting when they  
23 rendered the neg dec.

24 Initially, our client's principles met

1 June 27, 2022

2 with, communicated with extensively, with the  
3 then leaders of the neighborhood organization  
4 represented by Mr. Schwartz. That went on for  
5 months and months. And they worked on what would  
6 be acceptable to those leaders, ostensibly  
7 speaking, in large part on behalf of the  
8 organization, although they clearly pointed out  
9 that they didn't control everyone and we  
10 understood that.

11 But we negotiated in good faith, if we  
12 weren't heading to some agreement that would  
13 mitigate or if not eliminate the opposition to  
14 our application, why would the applicant possibly  
15 agree to reduce the scope of its project by some  
16 43 percent in terms of number of staff and  
17 residents and to put on tremendously onerous  
18 conditions, many of which, but not nearly all of  
19 which are. And then the neg dec, as been pointed  
20 out, commencing closer to the planning board's  
21 meeting on the neg dec in April, I got involved,  
22 as did our co-counsel at Cuddy & Feder directly  
23 with Mr. Schwartz and Mr. Wood, town attorney.  
24 And Mr. Wood was heavily involved in this

1 June 27, 2022

2 process. And even on the very day of the planning  
3 board meeting which the neg dec was adopted, Mr.  
4 Schwartz and myself sat in Mr. Wood's office with  
5 Mr. Wood and had extensive negotiations on those  
6 34 conditions of the neg dec in particular. And  
7 Mr. Schwartz was instrumental in drafting the  
8 substance of those conditions.

9 Now it seems like no good deed goes  
10 unpunished, because it seems that now we're  
11 hearing that that was basically only a fallback  
12 position for the neighbors so that if our  
13 application were granted, at least it wouldn't be  
14 so bad, in their words, more or less.

15 I would just say that's really not a way  
16 to do things. I hate to use the word  
17 disingenuous, but it is disingenuous to go  
18 through that process with us and then to stand up  
19 after we've agreed to all of these things, which  
20 are tremendously burdensome on the applicant, and  
21 then to say well, there was no agreement, and we  
22 didn't really mean it. This was just to keep you  
23 under control and we're still going to vehemently  
24 opposed your application. Enough of that.

1 June 27, 2022

2 The other topic that goes to parsing  
3 words is this issue of SEQRA. Of course, the  
4 board is bound by the planning board's negative  
5 declaration. And of course, it does still  
6 evaluate the five variance criteria. But to try  
7 to say that well, the finding of no significance  
8 on all, not one, but all relevant areas of  
9 environmental concern is not really relevant, or  
10 that the board could simply disregard that one.  
11 In fact, each and every one of those criteria,  
12 everything that's gone into the environmental  
13 review process is intrinsically interwoven with  
14 the five criteria that the board is considering.

15 So clearly, the law is very clear and  
16 the town attorney will advise the board on the  
17 law to the extent necessary. It should be  
18 abundantly clear that were the board to simply  
19 find that oh, these are insignificant for SEQRA  
20 purposes, but significant for variance purposes,  
21 the board's decision is quite likely to be set  
22 aside by a court, because that really would make  
23 little sense. The fact that the determinations  
24 were made by the lead agency of significance were

1 June 27, 2022

2 used --

3 UNIDENTIFIED MALE: What about his  
4 speculation?

5 MR. DOUGLAS: Don't interrupt anybody,  
6 okay.

7 MR. DAVIS: Excuse me?

8 UNIDENTIFIED MALE: But he interrupted  
9 [unintelligible] [01:33:51].

10 MR. DOUGLAS: Okay.

11 MR. DAVIS: I'm not speculating about  
12 anything.

13 MR. DOUGLAS: Please, please.

14 MR. DAVIS: The fact, the fact that it  
15 was in the context of SEQRA that impacts were  
16 found insignificant is largely irrelevant. If  
17 they're insignificant, they're insignificant.  
18 That's the point I wanted to make. And the law is  
19 pretty clear about that. And if you, if you read  
20 as I'm sure you have, the planning board's  
21 negative declaration, you'll find that at least  
22 in three or four spots, the planning board  
23 explicitly finds that there are no significant  
24 adverse impacts of this project, and that goes

1 June 27, 2022

2 directly to the neighborhood character.

3 You know, I think the focus on the  
4 community character, which while the planning  
5 board said it was an important factor left to  
6 this board to look at, as well, they specifically  
7 found that there was no impact on the  
8 neighborhood, on neighboring properties, on the  
9 community. The yeshiva, in terms of whether  
10 there's ever been 100 percent variances, the  
11 board well knows, by definition, either you have  
12 road frontage or you don't. Substantiality is  
13 reviewed in context. A road frontage variance is  
14 always going to be 100 percent variance. The  
15 yeshiva got one. I pointed out the similarities  
16 in that regard in my presentation.

17 We have given the analysis of other  
18 potential uses that are permitted as of right.  
19 There's a great deal of analysis in the  
20 environmental record with respect to educational,  
21 religious, governmental uses. Also,  
22 interestingly, the 20 lot residential subdivision  
23 was mentioned, which would have a similar traffic  
24 impact as this proposed use, and by the way,

1 June 27, 2022

2 would eliminate a large portion of the open space  
3 that's being preserved.

4 Just in terms of traffic, people seem to  
5 be focusing on what the original project was,  
6 including with respect to 120 cars. As I pointed  
7 out, there'd be a maximum of four to 12 vehicles  
8 coming and going total during any given shift. So  
9 the traffic is minimal. Your own traffic  
10 consultant found that, even with the case when  
11 there were 92 beds and 86 staff on site.

12 In terms of Cortlandt residents, I think  
13 Member Hunte pointed this out. We merely said we  
14 are always, at all times reserving at least two  
15 beds for Cortlandt residents at the request of  
16 the neighborhood group leadership at the time. We  
17 now also included now Ossining, Yorktown and  
18 Newcastle in that. But that's not to say that any  
19 or all of the occupants, patients of the hospital  
20 can be Cortlandt residents. And we pointed out a  
21 number of other ways in which we'll be  
22 contributing to the community in that regard,  
23 including providing scholarships for Cortlandt  
24 residents.

1 June 27, 2022

2 That's really all I would say at this  
3 point. And I think, you know, again, we would  
4 reserve the right to respond in writing should it  
5 be afford by the board of course. We'd like that  
6 opportunity to the extent necessary. We really  
7 think the environmental analysis that's been  
8 provided over seven years, which is probably  
9 higher than this podium here, address all of the  
10 points that have been raised tonight infinitely  
11 and exhaustively, but we would reserve that if  
12 the board should grant it to us.

13 And we would ask that the board at this  
14 point, no further comment having been made, seven  
15 years of comments having been put forth to the  
16 board, most of it repetitive at this point, for  
17 many years at this point. We'd ask that the board  
18 close the hearing, establish any time for written  
19 comments and consider granting its determination  
20 one way or the other at its July 25th meeting. We  
21 think we've met all the criteria. There's no need  
22 to reiterate all of them, and we would ask the  
23 board to proceed, you know, without any further  
24 delay in time. Thank you.

1 June 27, 2022

2 MR. DOUGLAS: Thank you. If we could get  
3 Ms. Wells or whoever.

4 MR. KEHOE: We're trying again.

5 MR. DAVIS: Okay.

6 MS. KAREN WELLS: Hi this --

7 MS. HUNTE: Still muted.

8 MR. DOUGLAS: We heard her voice.

9 MS. WELLS: Sorry, this is Karen Wells,  
10 how are you all.

11 MR. DOUGLAS: Good. Go ahead.

12 MS. WELLS: Okay. It finally worked. I  
13 wanted to clarify and I apologize for the  
14 acoustics. I'm actually on vacation, and it's in  
15 the middle of the night where I am. The Danish  
16 Home, to the best of my knowledge, it was  
17 actually allowed as a 55 and over residence. It  
18 is not even classified as a nursing home. So this  
19 was a residential facility. Also, to the best of  
20 my knowledge, while the acres owned for the  
21 riding stables academy is [unintelligible]  
22 [01:39:41] entity, it is owned in that structure,  
23 but it not operated as a public business.

24 Finally, my concern is more broadly,

1 June 27, 2022

2 from a greater Teatown community perspective,  
3 that what the zoning board is considering, which  
4 is waiving an entire variance requirement would  
5 be a legislative act, not something that is open  
6 for a non-elected board to do. In addition, the  
7 place of the properties considered, again, from a  
8 broader greater Teatown perspective, and even  
9 from a broader Cortlandt perspective, that would  
10 be an act of rezoning, because the land mass is  
11 so substantial.

12 MR. DOUGLAS: Did we -- you still there,  
13 Ms. Wells?

14 MS. WELLS: I am still here.

15 MR. DOUGLAS: Oh, okay, we weren't sure  
16 if you got cut off or you were finished.

17 MS. WELLS: I try to keep my comments  
18 short.

19 MR. DOUGLAS: Okay. Good, thank you.  
20 Anybody else on Zoom, Chris?

21 MR. KEHOE: No one else has raised their  
22 hand.

23 MR. DOUGLAS: Okay. Anybody else who is  
24 here in person wish to speak?

1 June 27, 2022

2 MR. THOMAS WOOD: Mr. Chairman, may I?

3 MR. DOUGLAS: Sure.

4 MR. WOOD: I'd just like to clarify for  
5 the record a few things. First of all, I'd say  
6 that there was a very positive good faith effort  
7 made to have a dialogue between both the  
8 applicant and the community. There was a lot of  
9 work put into that by a lot of parties. I think  
10 everyone acted in very good faith up front and it  
11 was never represented that there was an  
12 agreement. If there were, there would have been  
13 documentation of it, etc. Much of what was  
14 discussed was then offered by the applicant as  
15 conditions on the project, the reduction in the  
16 beds, etc. So I just felt it necessary to clarify  
17 that. The town obviously always facilitates  
18 trying to get communities to talk about things  
19 and that was our role in it.

20 And secondly, my only other comment for  
21 the board is obviously the SEQRA process cannot  
22 usurp the authority of the zoning board.  
23 Certainly, the point was made that the SEQRA  
24 document is binding on the board as to the study

1 June 27, 2022

2 of those environmental impacts and their  
3 determination on it, but it does not usurp the  
4 board's independent authority and ability to  
5 interpret the zoning ordinance into evaluate the  
6 comments of the community. And I just thought it  
7 would be important to place that on the record,  
8 so that's my view and certainly my recommendation  
9 to the board.

10 MR. DOUGLAS: Thank you. There was a  
11 suggestion that we have a site visit. I think  
12 that that's a good idea, assuming that the  
13 members of the board think that we should keep  
14 the public hearing open and schedule a dated for  
15 a site visit and then have another hearing on  
16 July 25th. I'd propose we do it sometime the  
17 weekend of -- it might be the 16th and 17th, I  
18 may be off by a day or so, if that works.

19 MR. KEHOE: Tradition is, at least with  
20 the planning board, they go out on a Sunday. I  
21 think the zoning board has done that in the past  
22 as well. So that would be Sunday, July 17th,  
23 which would be a week and a day before your next  
24 meeting, or the 24th is the day before the

1 June 27, 2022

2 meeting. Do you prefer the 17th?

3 MR. DOUGLAS: I personally prefer the  
4 17th if that works for all the people.

5 MR. DAVIS: 17th, what day --

6 MR. KEHOE: It's a Sunday morning at  
7 9:00 o'clock.

8 MR. DOUGLAS: Okay. So we'll have a site  
9 visit on Sunday, the 17th. It's because of COVID,  
10 it's been a while since we've done a site visit.  
11 We usually started them at 10:00? Does that sound  
12 -- I'll look to you, Chris.

13 MR. KEHOE: 9:00 o'clock.

14 MR. DOUGLAS: 9:00 o'clock? 9:00 o'clock  
15 is fine. I'm sorry.

16 MR. KEHOE: Leaves more for the rest of  
17 the day.

18 MR. DOUGLAS: No, that's --

19 MR. KEHOE: But, but this one is  
20 slightly unique. When the planning board did the  
21 site inspection, it was at the invitation at the  
22 applicant, so we drove onto the applicant's  
23 property and parked on the applicant's property.  
24 I don't know if this is the same type of site

1           June 27, 2022  
2           inspection, or if you want to make arrangements  
3           to go somewhere else. I mean I don't know what  
4           you want to see. Do you want to see the  
5           applicant's property, or do you want to just see  
6           the neighborhood per se or both?

7                   MR. DOUGLAS: I think we should see  
8           both, but of course, it's up to the applicant if  
9           they want us to be, to come on the property.

10                   MR. CHIN: Mr. Davis, would that be okay  
11           with your for the 17th of July, come there? Does  
12           not work. That's the day before the next zoning  
13           board.

14                   MR. DOUGLAS: Can there be another  
15           representative there? So tentatively you'll, I  
16           mean you'll obviously have to check whether you  
17           can have somebody there. But tentatively, we'll  
18           plan on being able to come onto the property and  
19           then we'll walk around the neighborhood okay,  
20           starting 9:00 o'clock. And I guess we should meet  
21           just outside the entrance to the property, okay.  
22           Sure, but if you need -- just because other  
23           people won't be able to hear you, also it's  
24           recorded, so.

1 June 27, 2022

2 MS. GREENSTEIN: So I just want to  
3 understand who this works. Do you want the  
4 residents to be there too? Should we meet? I'm  
5 not sure they would want us on their property?

6 MR. KEHOE: Well, I suggest that we do  
7 it the same way we did the planning board one.

8 MS. GREENSTEIN: Okay.

9 MR. KEHOE: In the sense that the  
10 planning board took a site inspection of the  
11 property and then left the property and then went  
12 down your street.

13 MS. GREENSTEIN: Okay.

14 MR. KEHOE: And met with the neighbors.  
15 I would suggest we do it that way. But that --

16 MR. DOUGLAS: No, that makes, that  
17 sounds like the right approach to me.

18 MS. GREENSTEIN: Okay. So how does this  
19 sort of get organized? Do we let people know and  
20 have them out?

21 MR. KEHOE: Well, if you're offering --

22 MS. GREENSTEIN: Yeah, we are. We're  
23 offering.

24 MR. KEHOE: Right. So we would, the

1 June 27, 2022

2 zoning board would appear in front of your home.

3 MS. GREENSTEIN: Okay.

4 MR. KEHOE: Sometime between 9:30 and  
5 10:00 on that Sunday morning. But I can keep in  
6 touch with you.

7 MS. GREENSTEIN: Great.

8 MR. KEHOE: It depends on how long they  
9 stay on the site.

10 MS. GREENSTEIN: Okay.

11 MR. KEHOE: But based on the planning  
12 board's experience, it's only 20 minutes or so on  
13 the site, and then we would leave and come over,  
14 which we did last time I believe, and speak with  
15 you and the other neighbors in that area.

16 MS. GREENSTEIN: So we should maybe --  
17 should we invite other neighbors as well? Is that  
18 the idea, or --

19 MR. DOUGLAS: Well, if you want,  
20 anybody, you know --

21 MS. GREENSTEIN: Okay.

22 MR. DOUGLAS: -- your address is what?

23 MS. GREENSTEIN: I'm 83 Quaker Hill  
24 Drive.

1 June 27, 2022

2 MR. DOUGLAS: Right. Right. Mr. Wood is  
3 saying, just so it's clear to everybody, we're  
4 not having a meeting there.

5 MS. GREENSTEIN: No, I understand.

6 MR. DOUGLAS: We're doing a site  
7 inspection.

8 MS. GREENSTEIN: Yeah, and walking  
9 around.

10 MR. DOUGLAS: If people want to come, as  
11 long as they understand that we're not, we're not  
12 going to engage in a quasi additional, you know.  
13 We're going to go get a look.

14 MR. CHIN: We're going to go to the site  
15 of the applicant first at 9:00 o'clock. And then  
16 approximately between 9:30 around there, we'll  
17 over to you.

18 MS. GREENSTEIN: Mm-hmm. You might want  
19 to walk it.

20 MR. CHIN: Huh?

21 MS. GREENSTEIN: You might want to walk  
22 it. It's interesting.

23 MR. CHIN: Is it that close?

24 MR. DOUGLAS: Yeah, is it close?

1 June 27, 2022

2 MS. GREENSTEIN: Well, it depends on  
3 what you consider close. I walk it all the time,  
4 but it's --

5 MR. MARTINEZ: How close is it from your  
6 house?

7 MR. DOUGLAS: Yeah, how long is it/

8 MS. GREENSTEIN: Well, the properties  
9 are next door to each other, but on the road,  
10 what would you say, it's about three-quarters of  
11 a mile to get to --

12 MR. DOUGLAS: We'll play it by ear.  
13 We'll either walk it or we will drive it. I am  
14 not going to pressure the other members as to  
15 whether they should walk or don't want to walk.

16 MS. GREENSTEIN: Okay. I just wanted to  
17 clarify.

18 MR. CHIN: I'm too old to walk that far.

19 MR. SHANNON: Just so we're clear, I'm  
20 extending the offer to my property as well. My  
21 property is right next to it and can accommodate  
22 a number of cars.

23 MR. DOUGLAS: Okay. Thank you, thank you  
24 very much.

1 June 27, 2022

2 MR. KEHOE: Yeah, I have experience with  
3 this. So what we did last time is we started at  
4 Mr. Shannon's property. It's a little convoluted,  
5 it's a little easier to drive even though it  
6 seems sort of silly, I mean you're literally  
7 driving like 100 yards to Mr. Shannon's house,  
8 but then you get in the car and you drive up and  
9 come down Quaker Hill.

10 MR. DOUGLAS: Okay. So we will defer to  
11 your experience and knowledge, as we always do.

12 MR. KEHOE: Okay. Thank you.

13 MR. DOUGLAS: Alright. So, do I have a  
14 motion to adjourn the public hearing?

15 MS. HUNTE: Motion to adjourn. Second?

16 MR. CHIN: Second.

17 MR. DOUGLAS: All in favor?

18 MULTIPLE: Aye.

19 MR. DOUGLAS: Any opposed? Okay. This  
20 case is adjourned until, it will be site visit on  
21 the 17th and then adjourned until the next  
22 hearing, the next full hearing date of the 25th.  
23 Thank you very much.

24 MR. CHIN: Thank you.

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2  
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June 27, 2022

(The public board meeting concluded at  
8:50 p.m.)

CERTIFICATE OF ACCURACY

I, Ryan Manaloto, certify that the foregoing transcript of the board meeting of the Town of Cortlandt on June 27, 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: July 15, 2022

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