



LINDA D. PUGLISI
Town Supervisor

Town Board Members
RICHARD H. BECKER
DEBRA A. COSTELLO
JAMES F. CREIGHTON
FRANCIS X. FARRELL

TOWN OF CORTLANDT

OFFICE OF THE TOWN ATTORNEY
TOWN HALL
1 HEADY STREET
CORTLANDT MANOR, N.Y. 10567

TEL: (914) 736-0930
FAX: (914) 788-9873

THOMAS F. WOOD
Town Attorney
tfwesq@aol.com

MICHAEL J. CUNNINGHAM
Assistant Town Attorney
mcunningham@townofcortlandt.com

JOSHUA B. SUBIN
Assistant Town Attorney
jsubin@townofcortlandt.com

MEMORANDUM

TO: Chairperson & Members of the Planning Board

FROM: Thomas F. Wood
Town Attorney

RE: Hudson Wellness

DATE: January 28, 2021

The above matter is on your agenda for February 2, 2021. Michael Cunningham, Esq. is ethically recused from being involved in this matter due to his prior professional affiliation. Josh Subin, Esq. who primarily works with the Zoning Board will assist you in this matter.

As a brief update on this file, I would offer the following general outline:

- 1) Upon original receipt of this application by your Board it was referred to the ZBA for the applicant to seek a variance from the requirement that hospitals must have 1000' frontage on a State Highway.
- 2) After discussion and an Article 78 Decision, it was determined that before the ZBA could consider the variance request SEQRA had to be completed. The matter came back to you as the Lead Agency to complete SEQRA.
- 3) The environmental assessment form was supplemented by traffic and water supply studies and reports.
- 4) During these discussions a question was raised by the Board as to whether or not the proposed use was a hospital as defined in our Zoning Ordinance.
- 5) The question was referred back to Martin Rogers, P.E., who functions as our Zoning Administrator. He held it did not fit the definition and the applicant appealed to the ZBA.
- 6) Because of a vacancy and two recusals, only four members of the ZBA could act. Four votes are required for any action to be taken. One member voted to uphold the Zoning

Administrator's opinion, three did not. Because it was 3-1 the Zoning Administrator's opinion stood. An Article 78 proceeding was commenced by the applicant. The Supreme Court declared that it is a hospital under the code definition.

7) The matter returns to this Board for completion of SEQRA process.

At this point the Board must make a determination of significance, that is adopt either a negative or positive determination of significance. The Board has before it the Environmental Assessment Form as well as ancillary studies and reviews that have been submitted. The Board can direct staff to prepare either determination for consideration.

If the Board adopts a Negative Declaration, the Board will determine that based on the plans before it, if built as set forth, no negative environmental impacts will be had.

If the Board adopts a positive declaration, the Board would determine that it has identified environmental impacts that must be further studied and reviewed. If the Board chooses this option, staff would submit to the Board all studies completed to date, etc. The Board can accept these items as sufficient to proceed to Public Hearing or the Board can require any additional studies to be prepared.

We stand ready to assist you with any questions.

(Mr. Subin is recovering from COVID and may or may not be able to attend your February Zoom meeting).

TFW:dp

cc: Michael Preziosi, Director of Technical Services
Josh Subin, Assistant Town Attorney