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April 20, 2022

Honorable Loretta Taylor and
Members of the Planning Board
Town of Cortlandt
1 Heady Street
Cortlandt Manor, NY 10567

Re: Connolly Application Subdivision of 49 Dutch Street, Lot 22

Dear Chairperson Taylor and Members of the Planning Board:

I am counsel for adjoining neighbors Brian and Stacey Retallick, 5 Sycamore Court, Montrose, New York, Gregory and Cynthia Martin, 1 Sycamore Court, Montrose, New York, Richard and Theresa Motko, 2 Sycamore Court, Montrose, New York, and Jason and Therese Sinks, 7 Sycamore Court, Montrose, New York. This submission is in response to and in opposition to the letter of Applicant counsel's letter of March 23, 2022.

Applicant's Counsel Gushue, without any analysis, merely states that the new proposed lot created by the subdivision has a legal right to ingress and egress Sycamore Court. It is respectfully submitted that she is wrong.

As this Board knows there was new construction on what is now known as Sycamore Court, which required the parties on Sycamore Court to enter into a new Deed Agreement, the January 17, 2012 Road Maintenance Agreement (the "RMA"). The RMA was very specific as to its limitations. It set forth all of the lots at issue.

The RMA identified the Lot 22 parcel as **one lot** owned by James Connolly.¹ That lot in 2012 was the same size as the lot is today.

¹

The Applicant seeks the sympathy of this Board by asserting that the new lot will be for a house which is resided in by the son

Purposefully, there is no mention of any potential subdivision of that Lot 22 when declaring the rights of the parties. See paragraph 6 of the RMA.

In contrast, at paragraph 7 of the RMA it contemplates subdivision of lots and states "The lots owned by Sabrinas, Damian and Santucci have been re-subdivided and the lot lines adjusted..." The RMA could have addressed a potential subdivision of Lot 22, but specifically and intentionally did not do so.

At paragraph 13 of the RMA it specifically limits the right of ingress and egress to only one lot, Lot 22: "Connolly's lot abuts Radzivila Road [now Sycamore Court] and Connolly has non-exclusive ingress and egress of Radzivila Road to and from Dutch Street." What Connolly seeks to do here is to subdivide Lot 22 into 2 lots. Those 2 lots are not reflected in this very carefully worded RMA, signed off on by all of the parties.

In contrast to the one lot of Lot 22, the RMA reflected new lots created by subdivision, i.e., New Tax Lot 23, New Tax Lot 24, and New Tax Lot Lot 33. There is no provision in the RMA for a new tax lot being carved out of Lot 22, which could then use Sycamore Court for ingress and egress.

To confirm that Lot 22 was only permitted to have one resident home which was to have ingress and egress to now Sycamore Court the RMA specifically set forth the percentages that each lot shall bear with regard to maintenance:

Sabrinas	21%
Damian	21%
Santucci	21%
Connolly	17%
Martin	16%
Germinaro	4%

If the RMA had contemplated that an additional lot was to bear the cost of the maintenance it would have specifically set it forth. Nor could it be argued that the new lot created in Lot 22 would share with the old lot a 17% share. However, this Board cannot re-write the Deed Agreement, the RMA, which was agreed to

of James Connolly. As this Board knows this Board cannot consider such personal circumstances, the real estate runs with the land. That is, the property can be subdivided and built and sold to any person. It might be that Adam Connolly seeks to reside there, however, that is not a factor that this Board can consider.

with eyes wide open, and it should remain as is. However, the new lot to be carved out of Lot 22 cannot enjoy ingress and egress to Sycamore Court as that was specifically prohibited by the parties when entering into the RMA.

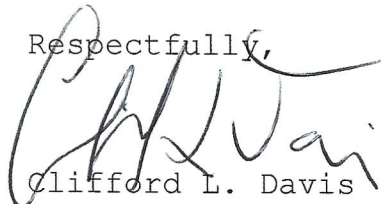
Counsel Gushue also refers to an Easement Agreement, dated November 21, 1961, 51 years before the Deed Agreement, the RMA, was entered into. The Easement Agreement refers to none of the parties in the RMA and does not specify how many lots can burden the right of way. The Easement merely gives a right of way to one owner, Alex and Anne Radzivila.

The parties felt the obligation and need to clarify this ambiguity and to establish all rights of the signing parties when it filed the RMA which is styled as a "Deed Agreement". Thus, it is incorrect to state that the new lot has the right to ingress and egress Sycamore Court based on the Easement Agreement alone, which was clarified by the Deed Agreement, the RMA. The Easement Agreement must be interpreted together with the Deed Agreement, the RMA, which limits ingress to one Lot, Lot 22, not a Lot 22 and a Lot 22A.

For the foregoing reasons it is respectfully submitted that the proposed new lot has no rights to ingress and egress Sycamore Court.

The Deed Agreement (RMA) and Easement Agreement are attached hereto.

Respectfully,



Clifford L. Davis

Encl.