

STATE OF NEW YORK : COUNTY OF ROCKLAND
TOWN OF STONY POINT : PLANNING BOARD

----- X
IN THE MATTER
OF
BA MAR MANUFACTURED HOME PARK

----- X
Town of Stony Point
RHO Building
5 Clubhouse Lane
Stony Point, New York
June 25, 2020
7:05 p.m.
(via Zoom)

BEFORE :

THOMAS GUBITOSA, CHAIRMAN
KERRI ALESSI, BOARD MEMBER
ERIC JASLOW, BOARD MEMBER
MARK JOHNSON, BOARD MEMBER
EUGENE KRAESE, BOARD MEMBER
JERRY ROGERS, BOARD MEMBER

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CHAIRMAN GUBITOSA: First item on the agenda is going to be a public hearing for Ba Mar, the manufactured home. We're going to keep the public hearing open. But we're going to open it tonight. And I would just ask that, like Steve said, that, you know, if we can keep the comments to three minutes. And you can also, you know, submit your comments written. You know, that part is still open.

So for the Ba Mar application, if we can just, before I open the public hearing, I guess, Mr. Emanuel, you want to give us a quick update, or whoever from the Ba Mar. So Ira, go ahead.

MR. EMANUEL: Thank you. Thank you, Mr. Chairman. And I want to thank you and the Board and the staff for all the efforts that you've put in to make this meeting happen. I know that it's a challenge. I've been in other communities, and it's not as easy as it looks.

Mr. Chairman, Members of the Board,

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we've been before you for quite some time now. We've worked very, very closely with the staff. We have obtained outside agency approvals and permits. And quite frankly, I know that you said that you were thinking about keeping the public hearing open beyond this evening, but we really think that this -- the time has come now for the Board to make a decision on this, to close the public hearing.

The big open items that we had have been resolved. We have received our DEC permit. That has been transmitted to the Town and you should have received them. And certainly, I know that your staff has received them because we went over them at the tech review meeting earlier this month.

And we've also received emails from Orange and Rockland Utilities indicating that they are comfortable with the plan subject only to -- first of all, they want to review the legal language of an easement that we're going to be granting them for access. That is a post final matter. And they also want

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2 to be sure that there is sufficient vertical
3 clearance underneath their wires.

4 My understanding -- and Ken DeGennaro,
5 our project engineer, is here on the
6 meeting -- my understanding is that the
7 Orange and Rockland will have approximately
8 45 feet of vertical clearance beneath their
9 wires. 45 feet from the ground beneath their
10 wires during a maximum sag. As you know,
11 transmission line wires, distribution line
12 wires, when they get heated up, when they get
13 used more heavily, especially during the
14 summer months, in the air conditioning
15 season, they expand and they sag. And Orange
16 and Rockland wants to make sure that there is
17 sufficient clearance underneath them so
18 obviously they don't burn things.

19 The maximum, the maximum sag results, I
20 understand, in a clearance of 45 feet above
21 grade. The only thing that would be under --
22 well, first of all, nothing would be actually
23 underneath the lines. But the only thing
24 that would be within the easements would be
25 some of these manufactured homes, all of

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2 which, of course, are only one story high.
3 And so they're a maximum of perhaps ten feet,
4 maybe twelve feet with the elevation that we
5 have to do in order to get above base flood
6 elevations.

7 Beyond that, you know, it's just a
8 matter of a normal post final wrap up, post
9 final permits. The site plan itself has
10 barely changed in months and months and
11 months. And we truly believe that the time
12 has now come, and that the Board should be in
13 a position to grant approval this evening.

14 CHAIRMAN GUBITOSA: Oh. Thank you,
15 Mr. Emanuel. Before I go to the public, does
16 any of the Board -- John, I mean, for the
17 engineer. John, any comment now, or do you
18 want to comment after the public hearing?
19 John O'Rourke?

20 MR. O'ROURKE: Yeah. Thanks, Tom. No.
21 As Ira said, the site plan's pretty well been
22 locked for a couple months. We're generally
23 satisfied with all the technical issues.
24 We're just waiting for those outside
25 approvals and the reviews. And he's right.

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2 The only one we haven't received to date is
3 the Orange and Rockland approval of the
4 easements.

5 CHAIRMAN GUBITOSA: All right. Good.
6 Thanks. Thanks, John. Max, any comments?

7 MR. STACH: Yeah. So the applicant has,
8 has been really working through a lot of my
9 comments, and was able to incorporate a lot
10 of the adjustments that I've asked over the
11 review period.

12 The one major issue sort of that we
13 couldn't resolve on a technical level was the
14 idea that, you know, sea level will continue
15 to rise. It's projected to continue to rise.
16 And so with the changes that the applicant is
17 incorporating, there's going to be a great
18 deal of -- and the two feet of freeboard
19 that's required under the code, there's going
20 to be a fair degree of improvement from
21 currently the condition and the exposure of
22 this area to flooding.

23 But eventually, this area, you know, in
24 30 to 40 years, is going to be subjected to
25 an occasional catastrophic flood like it was

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under Sandy again. And I think it makes a lot of sense. There's -- I don't know that the applicant can really do much more at this point, you know, given where the roads are, the elevations are. They are maintaining access during flood conditions now. But I think it's fair at this point to somehow convey to people that are going to be moving into this area that this is an area that's going to flood during severe weather now. And that that's going to continue.

And so my suggestion really -- and I don't think the applicant was happy with the suggestion -- but my suggestion for a way to address this was simply to require some signage that the roadways flood, so that people who are choosing to move into this area of the town are fully informed that this is a situation they're getting themselves into. And like I said, I don't think the applicant responded favorably to that suggestion. And so I think that's a, an item that the Planning Board has to determine whether or not they think it makes sense.

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2 CHAIRMAN GUBITOSA: All right, thanks.

3 Thanks, Max.

4 MR. STACH: You're welcome.

5 CHAIRMAN GUBITOSA: Bill, do you have
6 any comments before the public hearing?

7 MR. SHEEHAN: Yeah. I kind of, I agree
8 with both, you know, John and his points
9 that, you know, I think they're pretty much
10 there. As far as Max with the flood, and I
11 don't have an issue with putting some type of
12 sign up about flooding, but I don't see the
13 roads -- you know, I wouldn't want it to say
14 that just a simple sign that roads are going
15 to flood. They're only going to flood on a
16 very rare occasion at this point. You know,
17 the roads are all being, for the most part,
18 being brought up to Elevation Nine. The
19 floodplain elevation under FEMA right now is
20 Elevation Seven.

21 So the roads are going to be two foot
22 above the floodplain. I mean, if you did
23 some type of sign that under severe
24 conditions, the roads might have an issue.
25 You know, I think that's something that would

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2 be more appropriate, in my view.

3 But other than that, you know, you know,
4 we are replacing an existing mobile home
5 park. You know, technically, right now, if
6 they wanted to use the same configuration
7 that they have, they could be replacing units
8 and just elevating them. So I think it's,
9 it's definitely an improvement of what we
10 have now. So I think we have to take that
11 also, as we discussed over the last, you
12 know, two years, I guess, take that under
13 consideration.

14 CHAIRMAN GUBITOSA: All right. Good.
15 Thanks, Bill. Steve, any comments before the
16 public hearing?

17 MR. HONAN: Yes, Mr. Chairman. And it's
18 with regard to closing of the public hearing
19 at this time. As you know, this is a
20 continued public hearing, and that we're
21 going to continue it tonight.

22 And I did hear from an attorney, Alex
23 Bursztein, who indicated to me he represents
24 the interests of three people who are
25 presently living in the park. He wanted an

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opportunity to address this Board. However, he was not able to attend this meeting tonight. And I did inform him that it was my understanding that the meeting was going to be held open until the next meeting in July, at which time it most likely would be closed. So based upon that representation to Mr. Bursztein, I would respectfully request that the meeting be kept open.

CHAIRMAN GUBITOSA: Okay.

MR. HONAN: And continued until July.

CHAIRMAN GUBITOSA: Continued. Thank you. Thank you, Steve.

MR. EMANUEL: Mr. Chairman?

CHAIRMAN GUBITOSA: Yes, Ira.

MR. EMANUEL: Thank you. Mr. Bursztein is the attorney for the Legal Aid Society. He has been involved in this project since last winter. I don't know if he's ever actually bothered to show up in front of this Board despite the fact that he's, you know, made claims that he wanted to, that he thinks he ought to. And his interest is not with respect to the site plan. His interest is

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with respect to the tenants that are in the mobile home park that want to, that are still there and arranging to get a work out, or to remain, or whatever resolution there might be.

I am sorry Mr. Honan made a representation to him as far as what's going to happen at the public hearing this evening. But the simple fact of the matter is that Mr. Bursztein has had ample opportunity to address this Board in the past and has not taken advantage of it.

We all knew when this application was going to be heard this evening. It was noticed. Anybody, you know, there are other people who are here. We're here. And we really think it's unfair that this public hearing be kept open simply because Mr. Bursztein can't seem to make it to a meeting. He's had the opportunity.

CHAIRMAN GUBITOSA: All right. All right, Ira. We'll take into consideration. Any of the Board Members have any comments at this time? All right.

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2 If no one's got comments, what I'll do
3 is I'll open the public hearing. And like
4 Steve had said, you can -- there's an option
5 to raise your hand. I'll recognize you. And
6 like he said, if we can keep it to -- oh,
7 wait. Gene, go ahead. Sorry, I didn't see
8 you. Wait. Steve, can you undo Gene?

9 MR. HONAN: Gene, you can unmute
10 yourself.

11 CHAIRMAN GUBITOSA: Yeah, unmute
12 yourself, Gene.

13 THE CLERK: I'm going to text him.

14 MR. HONAN: Let me just see if I can do
15 it for him.

16 BOARD MEMBER KRAESE: I unmuted.

17 CHAIRMAN GUBITOSA: Yeah, here he is.
18 Go ahead.

19 MR. HONAN: You got it. You're with us.

20 BOARD MEMBER KRAESE: I'm getting there,
21 guys. I'm getting there. I just want to
22 comment that I like Max's statement, and Bill
23 kind of agreed. But the bottom line is I'm
24 always big on safety. And this is a, almost
25 an in kind reproduction of what's been

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previously there with the improved height elevation. And we can't really worry too much about 50 years. We'd like to, but it's unpredictable. So I'm kind of satisfied with the height restrictions that are imposed at this point.

And as far as it goes with Steve, you know, I don't know the story about this one attorney. But we should respect an attorney or a client's request. But it's not a big deal to me on that point. That's it. Thank you.

CHAIRMAN GUBITOSA: Thanks, Gene. All right, any other members? All right. If not, I don't see no hands there. What I'll do is we'll open the public hearing. And like Steve had said in the beginning, you know, we're going to limit it to three minutes, and I'll recognize you. And then once I recognize, raise your hand, Steve will unmute you.

So at this time, I'll open the public hearing. So if you could raise your hand in the little cube, I'll see if I can find

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2 whoever's going. Go ahead.

3 No, George, I meant do the regular raise
4 hand -- can you raise the hand over on the
5 right side of the options? There you are,
6 George. Go ahead.

7 MR. POTANOVIC: I don't think I have a
8 button for it.

9 CHAIRMAN GUBITOSA: No, that's all
10 right. Go ahead, George. I see you.

11 MR. HONAN: It might be under more, but
12 I'm not sure. Yeah, to the right.

13 MR. POTANOVIC: It looks good. I would
14 be in favor of continuing the public hearing.
15 You know, the Planning Board, as you know,
16 has not met for, I think it's been four
17 meetings now. Four months. It's been quite
18 a while.

19 CHAIRMAN GUBITOSA: Three months.

20 MR. POTANOVIC: And that's an excessive
21 amount of time, you know, delay in between
22 the last meeting. And really, this meeting
23 notice with the agenda was only published two
24 days ago.

25 I had spoken to Alex also earlier today,

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2 the attorney that was mentioned earlier. And
3 he did have some comments specifically about
4 O and R, and some other issues regarding the
5 site plan, not just the welfare of the
6 residents, which is one of the major issues
7 for him as it is for us.

8 So I think in consideration of the fact
9 that these meetings haven't happened in four
10 months, that we were only given literally two
11 days' notice that this meeting was going to
12 happen, happen on Zoom, other people made
13 plans. And it's reasonable to assume that
14 not only couldn't he make this meeting, but
15 that members of the public -- I don't even
16 know how many people we have on this call. I
17 tried to do the best I can to let people know
18 about this meeting tonight. But you know,
19 people do have plans. And with only two
20 days' notice, it was really not sufficient,
21 in my view, to end a public hearing tonight.
22 I think there should have been some more
23 advance notice.

24 My comments, as you know, have been
25 already on the record. I feel this, this

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development is excessively dense with the number of units. I know you had to meet certain road requirement widths and setback requirements that were different from the original development. And as a result of the roads having to be improved, which they were improved, the units are closer together in the case of I think at least 30 units as close, was only having five feet of side yard.

That, to me, is not only a bad idea, but it's dangerous, in my view, if, God forbid, we had a fire or some other kind of major catastrophe down there, flood or whatever. Five feet side yard, I guess on two different units would be ten feet of side yard between the two. That doesn't seem like an awful lot of space.

So I think what you're doing is you're cramming in with 250 variances that were granted by the Zoning Board, which didn't have any ability to make any changes to those variances. I think you're cramming in too many units. It's too high dense, too high

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2 density for this location.

3 And we will have additional flooding.

4 It's going to definitely happen. So we have

5 to consider that to be a definite

6 possibility.

7 So in summary, I guess I would suggest

8 and ask that the Board does continue the

9 public hearing and gives the public a chance

10 to have additional notice prior to closing

11 it, even though you feel you're at the end of

12 process right now. I think that's the right

13 thing to do during these times. This is a

14 new thing, these meetings. And I'm not even

15 sure everybody has access to these Zoom

16 meetings. But at least to give them enough

17 notice so they can try to connect. I

18 appreciate that.

19 CHAIRMAN GUBITOSA: All right. Thank

20 you, George. Does anyone else have any

21 comments at this time? Because I'm not

22 seeing any hands yet.

23 MR. POTANOVIC: How many members of the

24 public do we have?

25 MS. DRECHSLER: I raised my hand.

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2 CHAIRMAN GUBITOSA: Where are -- I
3 didn't even see. Who is that?

4 MS. DRECHSLER: I'm Jacqui Drechsler,
5 and I --

6 CHAIRMAN GUBITOSA: Oh, go ahead,
7 Jacqui. Sorry about that. Go ahead.

8 MS. DRECHSLER: I'm not on video. I'm
9 just -- well, I see you.

10 CHAIRMAN GUBITOSA: Go ahead.

11 MS. DRECHSLER: So I guess thank you for
12 this opportunity. However, it was such short
13 notice, I actually canceled another Zoom
14 meeting that I was supposed to be on in order
15 to be on this. And I believe that it is
16 terribly short notice. Not everyone has the
17 luxury to cancel a meeting, which I had. So
18 I only heard about it through George
19 Potanovic.

20 MS. FILGUERAS: I raised my hand.

21 MS. DRECHSLER: Hello? Hello?

22 CHAIRMAN GUBITOSA: Go ahead, we hear
23 you.

24 MS. DRECHSLER: Am I still -- okay.

25 CHAIRMAN GUBITOSA: Keep going, Jacqui,

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2 keep going.

3 MS. DRECHSLER: Okay. So I just feel
4 that this short notice, this should be put
5 over on to the next meeting. And I also do
6 believe -- obviously, I know the other
7 attorney Ira has his opinion on people being
8 able to make these meetings. But with such
9 short notice, I, you know, I really think
10 that we should respect that Mr., that Alex
11 would like to come speak before the Board.
12 And he has, I think he has in the past.

13 I still feel that the project -- you
14 know, this is kind of piggybacking on George,
15 that the side yard issue is a real issue.
16 You have a serious problem with emergency
17 vehicles if there were a fire, if there were
18 something there. It's just, it's just too
19 close. And so I think there's still issues
20 that somehow need to get resolved.

21 So my three things are these issues on
22 health and safety need to get resolved.
23 Mr. Bursztein should have the right to come
24 before the Board. And I really appreciated
25 having more notice because actually, with

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2 people going to Zoom meetings, there's so
3 many more things that you can go to and sign
4 up for and say you'll be a speaker at. And
5 you know, this wasn't, this wasn't enough
6 notice for me. So let's try to work on that
7 for the next time.

8 CHAIRMAN GUBITOSA: All right. Thank
9 you, Jacqui.

10 MS. DRECHSLER: Okay, thank you.

11 MS. FILGUERAS: Tom?

12 CHAIRMAN GUBITOSA: Susan, you were --
13 go ahead, Susan.

14 MS. FILGUERAS: I'm sorry. Susan
15 Filgueras, 87 Mott Farm Road. I can't figure
16 out how to raise my hand. I apologize to all
17 of you.

18 CHAIRMAN GUBITOSA: That's all right.

19 MS. FILGUERAS: Tom, thank you for doing
20 this. I haven't attended -- well, anyway, we
21 have the length of time.

22 I went to the Planning Board site hoping
23 to see the permits, the background of this
24 application. And basically, what I have are
25 the plats. If you look at Eagle Bay, you've

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2 posted the FEIS, the DEIS, and several other
3 documents. Why aren't the Ba Mar documents
4 posted on the Planning Board site? I could
5 have, like, read up on it and at least had a
6 few more comments to offer.

7 I will tell you, I guess I'm going to
8 have to FOIL the DEC permit because I would
9 definitely like to read this. This is still
10 the 100-year floodplain, am I correct? Am I
11 right or wrong? Is it still zoned as the
12 100-year floodplain?

13 CHAIRMAN GUBITOSA: Bill, Bill. I think
14 Bill can answer.

15 MR. HONAN: Well, I don't think that's
16 really the time for answer.

17 CHAIRMAN GUBITOSA: Oh, not for answer.
18 I'm sorry.

19 MR. HONAN: Just, you can make your
20 statement and we'll address it later.

21 CHAIRMAN GUBITOSA: We'll address it
22 after your comments.

23 MS. FILGUERAS: Okay. I'm sorry, Tom.

24 CHAIRMAN GUBITOSA: That's all right.

25 MS. FILGUERAS: At least if the

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documents were there, I could have read and not asked a foolish question, or wasted the time. I feel that the public hearing needs to remain open. I would like to see the DEC permit. I would like to see Orange and Rockland approve what has been suggested and what will be built prior to any approval, only because health, safety, welfare of the people that would purchase those units.

And I have, I have an ethical problem with simply posting a sign saying the road may flood. Remember, I'm one of the town residents that spent an enormous amount of money on a flooding issue by a builder who blithely walked away. I think the people that buy down there deserve to know that they're built in a floodplain.

Thank you. And thank you for doing this. And I hope all of you are healthy and safe.

CHAIRMAN GUBITOSA: Oh, thank you, Susan. Anyone? I can't -- Steve, can you see any other people raising hands? I can't see anything at the --

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2 MR. HONAN: No. There are -- as far as
3 I can see. Let me just do a quick check. I
4 think there are no other hands raised, so I
5 think that's it.

6 CHAIRMAN GUBITOSA: All right.

7 MR. STACH: I think, I think --

8 CHAIRMAN GUBITOSA: Max, you wanted to
9 say something?

10 MR. STACH: Yeah. I just wanted to
11 point out that if you go to the bottom of the
12 screen and you click on participants, you
13 will see a list of everybody who is
14 participating.

15 MS. FILGUERAS: Oh, thank you. And
16 raise hand.

17 MR. STACH: And raise hand is a button
18 at the bottom of that list.

19 MS. FILGUERAS: Thank you.

20 CHAIRMAN GUBITOSA: Oh, thank you, Max.
21 All right. I think, I think at this point
22 because of, you know, with the circumstances
23 going on and everything with the Covid that
24 I'd like to continue the public hearing to
25 next month. I know Ira --

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2 MR. EMANUEL: Mr. Chairman, can I
3 respond?

4 CHAIRMAN GUBITOSA: No. Ira, hold on.
5 Ira, hold on. I know you're not in favor.
6 But there's a lot going on with the staff,
7 with the getting documents together. So I
8 think another month isn't going to do us any
9 harm.

10 MR. EMANUEL: Well, Mr. Chairman, if I
11 can.

12 CHAIRMAN GUBITOSA: Go ahead.

13 MR. EMANUEL: This site plan, this site
14 plan has barely changed in over a year.

15 CHAIRMAN GUBITOSA: Right.

16 MR. EMANUEL: Okay. All we've been
17 working on in all that time are details.
18 Moving it maybe a feet here or a foot there.
19 Details in order to get this thing done. The
20 basic site plan been unchanged since the
21 beginning. And the reason why it's unchanged
22 since the beginning is because we started the
23 process out before we ever got to you.

24 CHAIRMAN GUBITOSA: Right.

25 MR. EMANUEL: We've been sitting down

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with your Fire Inspector and your Building Inspector, and said let's make this project as safe as we can. Quite frankly, I resent the fact that people are still talking, members of the public are still saying well, we're concerned about the health and safety of the residents. Okay. It's been vetted by your Building Inspector, by your Fire Inspector, by your Town Engineer, by the Members of the Board, okay. By the DEC. Okay.

Everybody who actually knows the technical aspects of this thing have said we're good, that they have no issues with it, that this is a significant improvement over what's going on. And the mere fact that somebody from the public says well, I'm worried about health and safety, you know, as if we aren't? As if the applicant isn't?

Don't forget, this applicant is going to be continuing to own it, and continue to manage, okay. And if nothing else, if you attribute nothing else to its motives, it's got a profit motive to make sure that this

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place is safe so that it doesn't get hit with all sorts of liability claims.

There is absolutely nothing that has been said, and in months, with respect to the layout other than we're concerned about this, we're concerned about that, there may be, you know, there's sea level rise, you know, maybe in 50 years, there might be some problems, okay. This is as good as it's going to get, okay. And I don't think that there's really anything that we're going to hear in the next month, okay, that's going to be any different from what we have been hearing for the past year, okay.

It's inappropriate to continue this public hearing. There is no reason to continue this public hearing. There is no new information that this Board is going to get from continuing the public hearing. And I think it's time that we moved on so that we can get this project going so that the 130 some families that are going to be moving in can move in a little bit faster, so that we can give some closure there, so that we can

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2 get this project going.

3 CHAIRMAN GUBITOSA: All right. All
4 right, Mr. Emanuel. But you know, I, I
5 understand. But just so you know, like with
6 the Planning Board, you know, I'm here for
7 the residents, not the applicants. And I
8 know we haven't met since February. So if
9 there's some residents that need to speak,
10 you know, I'd rather hear them now and give
11 them that opportunity. Gene?

12 MR. EMANUEL: Mr. Chairman, again, okay.
13 You've had public hearings for over a year.
14 We've barely had any changes. You haven't
15 heard anything new tonight, okay, except from
16 the applicant who continues to provide
17 additional information as requested by the
18 Board. We have given the Board every single
19 document that it has requested. Every single
20 document that it and its consultants need.
21 Okay. There have been no changes to this
22 plan, other than the most minor changes.

23 And simply because somebody says yeah,
24 well, maybe, you know, maybe we'll have
25 something different to say in July, again,

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for a year, there have been no substantive comments with respect to this plan. And the complaint that maybe it's too dense, which is the only substantive comment that I heard from Mr. Potanovic, quite frankly, we're below the density that is allowed under your code. And we've gotten the variances that were needed. The ZBA granted those variances, by the way, after a public hearing that was well attended.

So that issue should be, should be finished. It's over. There's nothing more to talk about.

CHAIRMAN GUBITOSA: All right. I'll go to the Board. Gene, do you have any comments?

BOARD MEMBER KRAESE: No. I can understand where Mr. Emanuel is coming from. What concerns me is we don't have final clearance from Orange and Rockland. Other than that, I really don't have an issue. It's been a couple years. I can understand their frustration to move forward. But I'd like to see all the Ts dotted, you know, all

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2 the Is dotted and the Ts crossed. I'm kind
3 of mixed on this one.

4 MR. EMANUEL: Mr. Kraese, we have the
5 approval from Orange and Rockland. They want
6 confirmation of one dimension, which we can
7 provide for them. That's it. So we have the
8 approval from Orange and Rockland.

9 BOARD MEMBER KRAESE: All right, thank
10 you. Again, I'm not really against closing
11 it personally. I mean, we did beat this to
12 death. I mean.

13 CHAIRMAN GUBITOSA: All right.

14 BOARD MEMBER KRAESE: Well, you're not
15 getting a final resolution right now. It's
16 just a matter of --

17 CHAIRMAN GUBITOSA: Right. They're not
18 getting anything final.

19 BOARD MEMBER KRAESE: I say poll the
20 Board, Tom. See what they say.

21 CHAIRMAN GUBITOSA: All right. For the
22 Board Members --

23 MR. HONAN: Tom, I believe we have some
24 people who have their hands raised.

25 CHAIRMAN GUBITOSA: All right. Which I

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2 don't see.

3 MR. HONAN: I have Mr. Wilson.

4 MR. WILSON: Yeah. I wanted to address
5 Chairman Gubitosa's comment regarding his
6 responsibility. We have agreements in place
7 to move, we have agreements in place to move
8 the majority of the residents. So in
9 delaying our approvals --

10 CHAIRMAN GUBITOSA: Can you guys hold on
11 a second? Can everyone, can everyone mute
12 their mics? Susan. All right, now try it.
13 Sorry.

14 MR. WILSON: As I was saying.

15 CHAIRMAN GUBITOSA: Yeah, better.

16 MR. WILSON: We have agreements in place
17 with the tenants that are currently there.
18 And in delaying our approvals, you are
19 delaying them from being able to move out of
20 the community. So while your responsibility
21 is to the residents of Stony Point, you are
22 also holding up the people that are currently
23 living in the community that we are ready to
24 move out.

25 CHAIRMAN GUBITOSA: And what was -- I

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2 didn't catch the first part. What, are you
3 part of the community? I didn't hear
4 where --

5 MR. WILSON: I am with RHP Properties,
6 ownership of Ba Mar.

7 CHAIRMAN GUBITOSA: Oh, okay. So you've
8 got agreements with a lot of the tenants.

9 MR. WILSON: That's correct. And we are
10 waiting on approvals to begin the move out
11 process.

12 CHAIRMAN GUBITOSA: All right. All
13 right, let me go to the Board. Steve?

14 MR. BROWN: Excuse me, Tom. This is
15 Joel Brown.

16 CHAIRMAN GUBITOSA: Hey, Joel.

17 MR. BROWN: Hi, how are you? Colby
18 works with us as well. And I'd just like to
19 add, what Colby's referencing is that the
20 Board instructed us to work with the
21 residents, and we've done so diligently. We
22 also were instructed to work with
23 Mr. Bursztein and his clients. He neglected
24 to contact us for months, and that's why
25 there's a delay with his clients. So what

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Colby Wilson is referencing is the fact that we've made agreements with the remaining residents to move, and we can't do so until we get the approvals to do so, right. So that's why this, the timing of the approval is so important to us.

And I'd just like to add further is that I don't feel -- I feel the need to mention it, but I think most you know, you know, we've been, we've gone over and beyond the call of duty to meet with everyone from the Town, the Building Department, individual Board Members. And we feel that we have made every attempt for the last two years to try to comply with all of the requests to be done. And at this point, that the timing is going to negatively impact those remaining residents that are there.

CHAIRMAN GUBITOSA: All right. I think -- so, we go back, the -- Ira, the happiness letter from O and R, we have that?

MR. EMANUEL: You have a series of emails that have narrowed things down. And the last email that we have and that was sent

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over to the Board was dated June 24th. So that's yesterday, I guess. And it says -- it was an email from Jim Heady to Ken DeGennaro, which says I reviewed your responses to the latest comments. I note that my latest comments have been addressed. In general, we find the proposed project and associated work within the Orange and Rockland easement acceptable. However, we still need to conduct a clearance assessment to ensure that our facilities will remain in compliance with the applicable codes and company standards, and therefore, still subject to Orange and Rockland issuing a formal consent letter prior to construction beginning within our easement.

CHAIRMAN GUBITOSA: Okay.

MR. EMANUEL: So this is the type of thing that could easily be done post, post final. Just like other permits that are sought and obtained post final.

CHAIRMAN GUBITOSA: I got you. Steve, I got to ask you a quick question. If -- would we be able to close the public hearing, but

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2 keep the written comments open until Monday
3 so that the attorney can send us stuff?
4 Because it will be, it's probably, we'll get
5 it more precise if he sends us the comments.

6 MR. HONAN: Yes. That option is open to
7 the Board if you wish to close the public
8 hearing but leave open the hearing for
9 submission of any submissions. I might
10 suggest a few more days than just --

11 CHAIRMAN GUBITOSA: Right. What do you
12 think?

13 MR. HONAN: But whatever the Board
14 decides.

15 CHAIRMAN GUBITOSA: All right. So if
16 we, if we could close the public hearing and
17 keep the written comments open to the end of
18 next week.

19 MR. HONAN: Sure.

20 MR. EMANUEL: Mr. Chairman, we really do
21 think that the time has come for the Board to
22 make a decision. And we believe that an
23 approval should be granted. And we think
24 you're ready now.

25 CHAIRMAN GUBITOSA: I don't think we're

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2 making a decision tonight, Ira.

3 MR. EMANUEL: May I ask why?

4 CHAIRMAN GUBITOSA: We just got back
5 into session, and we have a lot of things
6 just to make sure that, you know, our Ts are
7 crossed, our Is are dotted. We just -- this
8 is our first Zoom meeting back.

9 MR. EMANUEL: Well, I guess as I said,
10 we've been working with, you know, despite
11 the fact that the Board hasn't been, hasn't
12 been meeting, we have been working with your
13 consultants. And your consultants have all
14 given the clearance and have all given the go
15 ahead. We think that if this was the type of
16 thing, the type of application that perhaps
17 you've only seen once or twice before, I
18 might understand more readily your concern
19 that you've only gotten to it. But you've
20 been dealing with this for well over a year,
21 perhaps two years. The Board is extremely
22 familiar with this project.

23 BOARD MEMBER ROGERS: Mr. Chairman, if I
24 may.

25 CHAIRMAN GUBITOSA: Go ahead.

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2 BOARD MEMBER ROGERS: I would just like
3 to say the applicant makes a compelling, a
4 compelling argument. And I do feel that
5 we've gone the extra length as far as public
6 hearings are concerned. I think we've taken
7 in everybody possible. This Mr. Dershowitz
8 has not been able to attend for whatever
9 reasons he's had. But I think in fairness,
10 if we leave it open to him to put these
11 comments in writing, that we close the public
12 hearing and move ahead to see what
13 conditional things we can put in place before
14 we give a final approval. That's my opinion.
15 Thank you.

16 CHAIRMAN GUBITOSA: All right. Thank
17 you, Jerry. Bill, what's our options? I
18 don't know, what kind of approval is Ira
19 looking for? Is it site plan?

20 MR. SHEEHAN: Well, what the applicant
21 is looking for, approval for the site plan
22 that was submitted. I don't have an
23 objection myself closing the public hearing
24 because I don't believe you're going to get
25 any new information that hasn't been

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2 submitted over the last year or so.

3 CHAIRMAN GUBITOSA: Right.

4 MR. SHEEHAN: You know, I think they're
5 pretty well where they're going to be. I
6 don't see any, you know, we can talk all we
7 want about the spacing of the units and
8 things like that. That's been gone over. We
9 have, we have eliminated some of the units.
10 They got their variances. So that's kind of
11 a moot question. So I really don't know what
12 would be new, you know, new information.

13 I did read the email from O and R. And
14 I do agree with Ira that between the, you
15 know, the virus and the clearance issue,
16 O and R wanted to wait until the weather was
17 warm enough to actually get a good reading on
18 the, on the sag of the lines. Which, you
19 know, the last week, this week would have
20 been a good time to measure that. But you
21 know, I think we're pretty much there, or are
22 there.

23 CHAIRMAN GUBITOSA: All right. So for
24 the Board, so if we could close the public
25 hearing, keep the -- he can do the written

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2 comments, but would we just have to do
3 approval of a site plan, the current site
4 plan before us?

5 MR. EMANUEL: Yes, Mr. Chairman. The
6 only application before you is the site plan
7 application. We don't need a special permit.
8 We don't need any other permits. There is a
9 coastal consistency determination that needs
10 to be made, but I understand that that would
11 be part of the site plan approval resolution.

12 CHAIRMAN GUBITOSA: All right. Steve,
13 what else would we have to do? Tonight?

14 MR. HONAN: Nothing more tonight, other
15 than make your decision with respect to
16 either closing the public hearing or keeping
17 it open, setting this matter down for the
18 next Planning Board meeting, to either
19 continue the meeting or to vote on the
20 resolution. There is no resolution now. I
21 have to draft the resolution for you.

22 CHAIRMAN GUBITOSA: All right. So right
23 now, for the Board, I'll ask if we want a
24 motion to close the public hearing. So I'll
25 just send that out to the Board and who is --

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2 there, go ahead, sorry.

3 BOARD MEMBER ALESSI: I'll make that
4 motion.

5 CHAIRMAN GUBITOSA: All right. Kerri
6 made a motion to -- we'll close the public
7 hearing.

8 BOARD MEMBER ROGERS: I'll second that
9 with the condition that we allow
10 Mr. Dershowitz to provide his comments.
11 Sorry. Sorry, Mr. -- you know who I mean.

12 CHAIRMAN GUBITOSA: All right, yes.
13 Wait, I just need everyone to mute their --
14 yeah, there it is. Jerry, just mute yourself
15 so I don't bounce back. All right, so I have
16 a motion to close the -- second from Jerry.

17 MS. DRECHSLER: We can't hear you. We
18 can't hear you.

19 CHAIRMAN GUBITOSA: You can't hear me?

20 MR. HONAN: Tom, can you repeat that,
21 please?

22 CHAIRMAN GUBITOSA: Yeah. Can you hear
23 me now?

24 MR. HONAN: Yes, we can hear you now,
25 Tom.

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CHAIRMAN GUBITOSA: All right. I have a motion to close the public hearing with the contingency to accept the written comments from the attorney by the end of next week. And I had a motion from Kerri and a second by Jerry to close the public hearing and just keep, get the attorney's comments, the written comments by next week.

MR. HONAN: Mr. Chairman, are you going to just, are you keeping it open for general, anyone from the public to submit?

CHAIRMAN GUBITOSA: I'll keep it -- yes. We'll keep it open for -- like he wanted it. But we'll keep it open for the public up until the end of next week.

MR. HONAN: Okay.

CHAIRMAN GUBITOSA: So I have the motion to close the public hearing, but keep the written comments open to the end of next week. I have a motion and a second. And I I'll just poll the Board. Mr. Kraese?

BOARD MEMBER KRAESE: Yes.

CHAIRMAN GUBITOSA: Yes. Mr. Johnson?

BOARD MEMBER JOHNSON: Yes.

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2 CHAIRMAN GUBITOSA: Ms. Alessi? Was
3 that a yes? You were on mute. Yes, she said
4 yes.

5 BOARD MEMBER ALESSI: Yes.

6 CHAIRMAN GUBITOSA: All right. Jerry?

7 BOARD MEMBER ROGERS: Yes.

8 CHAIRMAN GUBITOSA: Jerry, yes. And I
9 say yes, too. So we'll close the public
10 hearing, and we'll keep the comments, the
11 written comments open until -- let me see.
12 What's the date for the end of next week?

13 MR. STACH: Tom, I think you might have
14 missed somebody.

15 CHAIRMAN GUBITOSA: Oh, Eric, I'm sorry.
16 Eric.

17 THE CLERK: And the date is the 26th.

18 CHAIRMAN GUBITOSA: Yes. But we're
19 closing the public hearing but keeping the
20 comments open to, for the public, July 3rd.

21 MR. HONAN: Mr. Chairman, July 3rd is a
22 holiday. So why don't we do it to the
23 second?

24 CHAIRMAN GUBITOSA: All right, we'll do
25 it to the second. So July 2nd, for the

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2 written. Thank you, Steve. Thanks, Mary.

3 THE CLERK: You're welcome. Eric, how
4 did you vote?

5 BOARD MEMBER JASLOW: Yes.

6 CHAIRMAN GUBITOSA: Yes.

7 THE CLERK: Okay.

8 CHAIRMAN GUBITOSA: All right.

9 THE CLERK: And how did you vote, Tom?

10 CHAIRMAN GUBITOSA: I voted yes.

11 THE CLERK: Okay.

12 CHAIRMAN GUBITOSA: Thanks, Mary. Now
13 for the site plan, are we waiting for next
14 month, Steve? Yeah.

15 MR. HONAN: I have no resolution for you
16 tonight.

17 CHAIRMAN GUBITOSA: All right. So Ira,
18 we're going to wait, we have to wait until
19 next month to do the site plan. I'm sorry.

20 MR. EMANUEL: We're disappointed.

21 CHAIRMAN GUBITOSA: Well, it's tough
22 times. And you know, you know, I hope
23 everyone just, you know, takes that into
24 consideration. There's a lot going on, you
25 know. A lot of people have been impacted by

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this. So you know, I think a little patience and, you know, during these times would help, you know. We're all disappointed, but we just got to, we got to keep moving on.

MR. EMANUEL: Mr. Chairman, I'm certainly sympathetic to what's going on. We're still disappointed. Thank you.

CHAIRMAN GUBITOSA: All right. You could be -- thank you, Ira. You could be disappointed. We'll see you next month.

MR. EMANUEL: Okay.


(Time noted: 7:48 p.m.)

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THE FOREGOING IS CERTIFIED to be a true
and correct transcription of the original
stenographic minutes to the best of my ability.



Jennifer L. Johnson

