

MESSINA ASSOCIATES
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RE: Lynn/David

Response to Marlboro Planning Board comments of March 18, 2024

1. Received revised letter from ZBA allowing “Lot 1 with 3 existing structures with non-conforming use to continue use as depicted on map.” Also variances for front yard setbacks for Lot 1 and Lot A.
2. We have shown the property lines of the subject properties to be the centerline of Willow Tree Road and Mulberry Lane in accordance with the record deeds. Town roads that were built without a dedicated deed or a width declaration are established as Highways by Use-Prescription. Both Willow Tree Road and Mulberry Lane fall under this category, and their highway boundaries are determined by what the traveling public now uses and the elements of the highway that the Town of Marlboro now maintains. This line is depicted on the plans and labeled as highway boundary by use.

As per The New York State ROW MAPPING PROCEDURE MANUAL, Chapter 4 Highway Boundary and Property Line Determination.

Section 4.4 Highway by Use- Prescription “Under New York State law, a highway established by prescription gives the public only a limited right of easement over the owner’s property for highway purposes. Title to the underlying roadbed remains with the owner of the property.”

“New York State’s Highway Law, Section 189 states:

“All lands which shall have been used by the public as a highway for a period of ten years or more shall be a highway, with the same force and effect as if it had been duly laid out and recorded as a highway, and the town (highway) superintendent shall open all such highways to the width of at least three rods”. This may be accomplished under certain conditions and legal procedures . We believe that this law accomplishes the goal of the Town’s policy of requiring the property owners to deed over the area of their property 25 feet from the centerline.

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3. Documentation for approved well and SDS locations will be provided when we receive Ulster County Health Department approval.

4. I have given the Highway Superintendant a copy of the plan and have staked out the proposed driveways locations for his review.

3. Topography will be placed on Subdivision Plan when we begin the design of the septic systems.

5. I have revised the application to indicate it is a 4 lot subdivision.

Responses to comments for November 20, 2023 meeting:

8. Sight distances will be provided when proposed driveway locations are approved by the Highway Superintendant.

9. Will provide information when Subdivision design elements are closer to finalization.