

February 28,2025

Dear Supervisor Corcoran & Town Board Members,

My name is Michael DiViesti and I live on Diviesti Drive , Marlboro, NY 12542

A few years ago my father passed away and I am now trying to sell his home.

His home is attached to my home (same property) and I have been trying to subdivide the property for the last year bringing the property into conformity and putting each house on its own lot.

I have been in front of the planning board several times and at the final hour they informed me that the subdivision of my fathers home from my home would create more than 4 houses on a private road.

With that said I do have road frontage on south Street , Marlboro NY and did get a variance from the Town of Marlborough Zoning board (to add the additional lot in accordance with Town Code section 130 -14.16 (A)

The planning board is now requesting a waiver from the Town Board referring to Town Code section 130-14.17 (B)

The town engineer acknowledges the Zoning Board Variance but says I need your approval because of the wording in town code section 130.14.16 (which I believe to be unclear) But either way I please ask the Town of Marlborough Town Board to give me this exemption since I am making the property more conforming to the Town Code by separating the two homes.

Thank You in advance

Michael Diviesti

Town of Marlborough Zoning Board of Appeals

21 Milton Turnpike - PO Box 305

Milton, NY 12547

Telephone: (845) 795-6167 Ext. 118

Fax: (845) 795-6171

DATE: January 21, 2025

Attn: Town of Marlborough Planning Board

Michael DiVesti

6-8 DiVesti Dr

Marlboro, NY 12542

Please be advised that on January 9, 2025 this board has granted your request for

1. Lot width where 150' is required and 143.7' exist
2. Town Code Section 130-4-16 requires

"Between two to four lots connected to a public street, however, up to two additional lots may use the private road if lots have minimum required frontage"

This lot has 4.45' road frontage needing a 145.55 Variance.

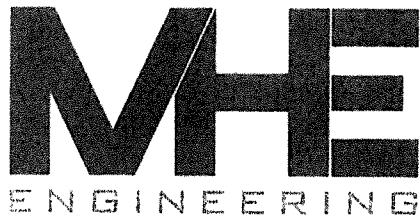
This matter is regarding parcel# 108.4-7-14

Feel free to contact our office for any further information that may be needed.

Sincerely,



Lenny Conn Chairman



**TOWN OF MARLBOROUGH
PLANNING BOARD
TECHNICAL REVIEW COMMENTS**

PROJECT: DIVIESTI SUBDIVISION
PROJECT NO.: 23-31
PROJECT LOCATION: SECTION 108.4, BLOCK 7, LOT 14/6-8 DIVIESTI DRIVE
REVIEW DATE: 28 FEBRUARY 2025
MEETING DATE: 3 MARCH 2025
PROJECT REPRESENTATIVE: ACES, JONATHAN MILLEN, PLS

1. While the ZBA granted a lot frontage variance of 145.55 feet for the South Street frontage. Town Code Section 130.14.16(A) states "that lots enjoying frontage variances on a public street or highway shall not be eligible to increase the number of lots on a private road". Private road specifications are in the Roadway Specification Section 130. This section of code is outside the zoning chapter of the code. Town Board relief would be required for items outside the zoning code. ZBA has authority to grant variances to zoning code sections.
2. At the 3 July 2024 meeting issues regarding extinguishment of the easements were discussed. Status of these easements should be addressed. Similar comment was made at the 21 January 2025 meeting.
3. No new construction is proposed for the subdivision of the two existing houses on one single parcel. Existing utilities will continue to serve the parcels.
4. Applicants are requested to confirm water service for each of the structures as independent. A well is depicted on Parcel B. Water service should be confirmed for Parcel A.
5. It is unclear if a Maintenance Agreement exists for DiViesti Drive.

Respectfully submitted,

MHE Engineering, D.P.C.

Patrick J. Hines
Principal
PJH/kmm

Michael W. Weeks, P.E.
Principal

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Private roads.

§ 130-14.16

[Amended 10-12-2010 by L.L. No. 7-2010]

A. A "private road" shall be defined as a road privately owned and maintained as an access way for between two to four lots, connecting to a public street. No more than four lots may be served by a private road. However, up to two additional lots may use the private road, if a private agreement so allows, provided that those two additional lots have the minimum required frontage under Chapter 155, Schedule I, of the Town Code on a public street or highway. Lots enjoying frontage variances on a public street or highway shall not be eligible to increase the number of lots on a private road. For purposes of the private road use count, no distinction shall be made between developed or undeveloped lots having the right to utilize said private road. However, the private road use count as addressed under this subsection must be considered prior to any building permit being issued for any lot. Excess lots on a private road shall not be eligible for a building permit. No subdivision shall contain more than one private road.

[Amended 8-13-2018 by L.L. No. 4-2018]

VARIANCE OBTAINED

VERY UNCLEAR

Interpretation.

§ 130-14.17

[Amended 2-9-2009 by L.L. No. 2-2009]

- A.** Final decision as to the interpretation of any part of these road specifications shall rest with the Town Highway Superintendent.
- B.** The Town Board, after consultation with the Highway Superintendent, shall have the authority to waive or to modify the requirements of these specifications when, in its opinion, all of the following conditions are applicable:
 - (1)** Unique or peculiar conditions make it impracticable to follow the strict letter of these specifications without causing significant hardship to the property owner;
 - (2)** Issuing the waiver or modification will not establish precedent which tends to encourage efforts to avoid the standards established in this chapter;
 - (3)** The waiver or modification is not contrary to interests of public health, safety and welfare; and
 - (4)** The Town Board shall balance the interests of the public against those of the applicant, and the Town Board must find that the detriment to be suffered by the public, if any, by the granting of the waiver or modification is not greater than the benefit to the applicant in granting the waiver or modification.
- C.** Where the requested waiver or modification affects a matter pending before, formerly before, or foreseeable to come before the Planning Board, no action shall be taken without providing the Planning Board with opportunity to comment on not less than 30 days' written notice.

