

PLANNING BOARD OF THE TOWN OF MARLBOROUGH

RESOLUTION

**Application of Edward Pross, on behalf of Marlborough Fire District, for
Exemption from Local Land Use Regulations for the Marlborough Fire Department
Renovation and Addition Project**

October 20, 2025

_____ offered the following Resolution, which was
seconded by _____, who moved its adoption:

WHEREAS, Edward Pross, on behalf of the Marlborough Fire District (hereafter, the “Applicant”), submitted an application to the Town of Marlborough Planning Board (the “Planning Board”) on September 23, 2025 for waiver from site plan review for a project to renovate and expand the Marlboro Firehouse (the “Project”); and

WHEREAS, the Project is to take place on property owned by the Fire District and located at 14 Grand Street, Marlboro, NY 12542 (S/B/L: 108.12-1-19.100); and

WHEREAS, the proposed renovation Project is for the purpose of expanding the Firehouse to provide adequate space for all equipment, living, and safety needs, and updating the structure as required to comply with NFPA, OSHA, and ADA standards; and

WHEREAS, the Marlborough Fire District is an entity entitled to limited immunity and, therefore, whether the Project may be deemed immune from local zoning regulations is dependent upon the Planning Board’s review of the Project pursuant to the “balancing of interests” test established by the New York State Court of Appeals in *Matter of County of Monroe v. City of Rochester*, 72 N.Y.2d 338 (1988) (hereinafter, “*Monroe*”); and

WHEREAS, the *Monroe* Court recognized that municipal entities in New York State can be exempt or immune from local land use regulations, and enunciated nine factors to be considered when a local government analyzes whether such exemption or immunity applies; and

WHEREAS, those nine factors are as follows:

1. The nature and scope of the instrumentality seeking immunity;
2. The encroaching governmental entity's legislative grant of authority;
3. The kind of function or land use involved;
4. The effect local land use regulation would have upon the enterprise concerned;
5. Alternative locations for the facility in less restrictive zoning areas;
6. The impact upon legitimate local interests;
7. Alternative methods of providing the proposed improvement;
8. The extent of the public interest to be served; and
9. The intergovernmental participation in the project development process and an opportunity to be heard; and

WHEREAS, the Planning Board, at its regular meeting on October 6, 2025, heard from the Applicant's representatives and the Planning Board's Consultants and discussed each of the nine factors set forth above; and

WHEREAS, the Planning Board, at its October 6, 2025 meeting, determined that a public hearing would be held on October 20, 2025 for the purpose of soliciting feedback from the public on the issue of potential waiver of Planning Board site plan review under *Monroe*; and

WHEREAS, on October 20, 2025, the Planning Board opened a duly-noticed public hearing at which all those who wished to be heard, for and against the application, were heard; and

WHEREAS, the Planning Board has analyzed each of the nine *Monroe* factors in evaluating whether the application should be exempt or immune from local land use regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board makes the following findings:

1. The nature and scope of the instrumentality seeking immunity is the Marlborough Fire District, which is a district corporation and political subdivision of the State. Fire Districts are distinct from the municipality in which they are located, but they are created by the Town Board. Commissioners of the Fire District are elected by voters in the District. Commissioners are authorized to adopt rules and regulations governing fire companies and departments.
2. The encroaching government's (the Fire District's) legislative grant of authority comes from New York Town Law Article 11, which allows a Town Board to establish a Fire District. Article 11 does not grant absolute immunity to actions by a Fire District.
3. The kind and function of the land use involved is expansion and update of an established Firehouse. The function of the Fire District is to protect the community from fire and other emergencies. The land is used for a non-commercial, governmental use and the land use will not change due to the proposed Project.
4. The effect local land use regulation would have upon the enterprise concerned is as follows: the land use regulation from which the District seeks a waiver is site plan review by the Planning Board. Requiring the Fire District to proceed through normal site plan review could stall the project and delay funding approval when the need for expanded fire resources in the community is urgent.

5. Alternative locations for the facility in less restrictive zoning areas would be impractical.

The Firehouse is already located in the present location on property owned by the District.

This Project is just for renovation and expansion. An alternate location would likely require an even more extensive development project and is therefore not preferable.
6. The impact of the Project upon the legitimate local interests of the public and of the volunteer firefighters at the Firehouse would be positive. The upgrades to the Firehouse will result in conformance with ADA, OSHA, and NFPA standards that are not currently met. Marlborough has an interest in protecting firefighters and their families from carcinogenic and other hazardous materials, and in enabling them to respond efficiently to emergencies. Additionally, the community has an interest in ensuring that the District has the capacity and equipment necessary to respond to emergency calls in a growing municipality.
7. There are no effective alternative means to providing the proposed improvement. The District and its consultants spent over a year reviewing a dozen iterations of the plan to optimize cost and limit impact on the property. The Firehouse needs upgrades to comply with the law, and more space to house equipment to serve a growing community. Other than relocating entirely, there may be no alternative method available to provide the improvement.
8. The extent of the public interest to be served by the improvement is substantial. The community has grown in population with multiple new housing developments. The increase in population has resulted in an increase in fire-related emergency calls. The current Firehouse barely meets the space requirement for necessary equipment and apparatus. More space is necessary to meet the current and future needs of the community.

Firehouses serve an essential public purpose: to protect people and property from danger and damage. The subject Firehouse must grow to accommodate the needs of the community, and conform to ADA, OSHA, and NFPA standards to protect the wellbeing of its firefighters.

9. The Fire District has solicited intergovernmental participation in the project development process and granted the public an opportunity to be heard. The District previously held a Public Education Meeting on July 23, 2025, which all residents of the Town of Marlborough were invited to attend. If the Planning Board waives site plan review, the District will proceed with the environmental review process under SEQRA. Ultimately, the electorate, by referendum, will vote on the Project. Furthermore, in making the determination of whether to grant immunity from site plan approval, the Planning Board held a duly-noticed public hearing at which the public was given the opportunity to voice comments and concerns.

BE IT FURTHER RESOLVED, that the Planning Board has determined that the above nine factors weigh in favor of granting the Marlborough Fire District immunity from site plan review on the proposed Project, and the Planning Board therefore grants the Applicant immunity from Planning Board review thereon.

BE IT FURTHER RESOLVED, that, as the Project is no longer subject to Planning Board review or approval, the Fire District will undertake SEQRA review for the Project as required by 6 NYCRR Part 617 et seq.

The foregoing Resolution was duly put to a vote which resulted as follows:

	YEA	NAY
Chairman Brand	_____	_____
Member Lanzetta	_____	_____
Member Lofaro	_____	_____
Member Callo	_____	_____
Member Jennison	_____	_____
Member LaMela	_____	_____
Member Troncillito	_____	_____

Dated: Milton, New York
October 20, 2025

Jen Flynn,
Planning Board Secretary

CERTIFICATION

The undersigned hereby certifies that the annexed Resolution, being in the Matter of the Application of the Marlborough Fire District for Exemption from Local Land Use Regulations for the Marlborough Fire Department Renovation and Addition Project, dated October 20, 2025, has been duly filed this day in the Office of the Clerk of the Town of Marlborough located at the Town of Marlborough Town Hall, 21 Milton Turnpike, Milton, New York 12547.

Dated: October , 2025

COLLEEN CORCORAN, Town of
Marlborough Town Clerk.