Town of Yates
Joint Public Hearing
May 4, 2023

Chairman Richard Kurz called the public hearing to order at 7:00 pm, at the Lyndonville Central High School Auditorium, 25 Housel Ave., Lyndonville, NY 14098.

Those Present:

Richard Kurz, Chairman of Planning Board
Joanne Suhr, Planning Board Member
Mark Hughes, Planning Board Member
Ralph Smith, Planning Board Member
Dawn Metty, Deputy Clerk
Andrew Meier, Town Attorney
Gary Daum, ZBA Chairman
Don Melfi, ZBA Member
Jim Taylor, ZBA Member
Mike Boring, ZBA Member
Eric & Michele Harling
Larry Wolfe
Brett Baker
John Riggi
Ted Lewis
Gary Dent
Joel Dent
Chris Whipple
Vickie Robinson
Donna E.
Harold Suhr
Jim & Val Wells
Beth Miller
Paul & Sandra Lauricella
Steve Colon & Alexys Colon
Terry & Carla Woodworth
Steve Shaw
Anne Hyndman
Paul Sylvestri
O. Stokes
Dave D'Anniballe
Jessica Root Olinger
Mike & Brooke Wells
Richard & Linda Fisk
Jeff Toussaint
Matt Toussaint
Chris Albone
Lynda Dayton
Auston Bentley
Sue Hrovat
Steve Grabowski
Russell Bentley
Justin Whipple
Craig & Deborah Isaacson
Ritajane Isaacson
Richard Boyle
Maxwell Mank
George Avery
Jon & Carol Neal

Those Absent: Ed Urbanik and Pat O'Brien

PLEDGE OF ALLEGIANCE

Chairman Richard Kurz said that this is a joint public hearing with the Planning and Zoning Board of Appeals on the H.H. Dobbins and Son LLC application for a special use permit and relative variances for the farm labor camp to be located on North Lyndonville Road Tax Parcel 24.-1-9.122. This is not a question and answer session but a public hearing at which time these boards will receive public comment on the applications.

Andrew Meier, Town Attorney, read the public hearing notice that was placed in the Batavia Daily Newspaper.

PRIVILEGE OF THE FLOOR

Paul Lauracella, Town of Yates, said years ago our Town Forefathers passed the Right to Farm Law protecting local farm operations. The Town has always been an agriculture area. He would like to see Dobbins continue to provide jobs to the community.

Brett Baker, Lockport NY, said he is part owner of Dobbins and will be sole owner in the near future. My roots are in Western NY agriculture. Grandfather had a farm with migrant workers where 8 men lived at

their house during harvest. I'm 46 and don't recall farming without the aid of the H2A or H2B guest worker program. To my knowledge they have never encountered any trouble with these men with the law. H.H. Dobbins has been in business for over 63 years. We grow, pack and sell apples of Western New York year round to families all over the country and world. It's important to understand that what we do is important to those of us that work at H.H. Dobbins and also extremely important to the 50 plus farmers and their families that they trust us with their fruit to make sure that it's sold for a profit. If we don't have the proper work force at the proper time the farmers' profits from the harvest will be drastically reduced. Today's local labor supply is extremely under supplied you see signs in nearly every Orleans County business windows for help wanted. Altogether, Dobbins' companies' employ between 75 and 140 employees depending on the time of season. Our goal with the new building is to provide highly efficient and improved living conditions for our farm guest workers from February to November and for our packing house guest workers from November to May. Our employees work hard long days performing many tasks that most of our employees can't and often won't perform. We wish to give these men better comforts and amenities after their hard day of work.

Dave D'Anniballe, Gasport NY, said I've worked in the agricultural industry for 35 years, the last 21 years with H.H. Dobbins. I love my job and the people I work with. People that apply for United States work visas like H2A and H2B workers are subjected to pre-screening by the US Embassy or Consulate in their home country. Each one is personally interviewed and fingerprinted and has their personal history reviewed including screening for any criminal activity. Several scientific studies have documented that guest workers with work visas are significantly less likely to commit crimes than citizens who are born in the United States. The underlying research indicates that because the workers leave their homes and travel thousands of miles to better their lives and the lives of their families, they have a substantial incentive to stay of out trouble.

Paul Sylvestri, Dobbins Attorney, wanted to point out a few things that were expressed in an email response to the questions Mr. Kurz submitted to the Department of Agriculture. We were able to get through FOIL a copy of the response from the Department of Agriculture and would like to point out a few highlights from that response. First the need for H2A workers throughout the winter months of February through November; the Department of Agriculture stated that housing for H2A workers is not required to be placed on land currently being farmed. Department of Agriculture stated whenever feasible you should avoid the use of prime agricultural soils which are best for production and not for building of farm labor housing. That's exactly what H.H. Dobbins planned on doing and why they chose the location they chose just down the street from here. As for the setbacks and reason Mr. Kurz gave reasons that setbacks are 200 ft. were because of application of pesticides concerns and concerns of that nature. Department of Agriculture stated that the town should not substitute its judgment in creating buffers beyond what comprehensive federal and state regulations require and that the federal and state regulations address such things. The Town shouldn't get involved. For the H2B workers, the Department of Agriculture stated that H2B workers working in packing operations do fall within the Ag and Markets definition of a farm operation when they are packing those farmers apples that are housing those workers. In the situation though for H.H. Dobbins Inc. which is the packing operation it also packs apples for other farmers so in that situation the Department of Agriculture stated that it doesn't fall under the definition of farm operation as they define it because they define farm operation as a singular not as plural. They are really mixing the words there. They did say that they would and do support Dobbins maximum use of the farm structure that sits under the right to farm law for H2A workers to be housed in this structure to the extent there's room for other workers such as H2B workers, they fully support Dobbins maximum use of the facility. This last sentence was not through email but over the phone.

Russ Bentley, Town of Yates, said Dobbins is a good place; they employ quite a lot of people. They do a good job with what they're doing. They have 401k plans for their workers; that's very good. I do question the quality that they will keep this place up and concern with the area they want to put the building in is not a highly drainable area so if they don't connect with the sewer system it's going to be a problem. Maybe another area would be better.

John Riggi, Town of Yates, asked that at this time the H.H. Dobbins Inc. Special Use Permit be denied for the following reasons. These reasons have everything to do about the dignity of the people that are doing

the work. The current Dobbins housing on N. Lyndonville Road is concerning and I'm concerned about the ability of Dobbins to ensure that all hard working migrant employees are allowed the living conditions and the dignity and most important for the work they do. The house across the road from where they want to build is not in good shape. Second point, this project is 104 in length by 40 in width built on a concrete slab. As a tax paying resident in the Town of Yates the thought of the hard working migrants in a barn is unacceptable to me. In fact I have a much, in my mind, more appropriate housing option for the $450,000.00 that they will be building on this project would be to actually build a home on this site. The planning board should require the construction of a real home for these hard working folks. Third, pedestrian safety, we don't have sidewalks on that side of the road. If someone wants to go into town they are going to have to either walk on the shoulder of a state road or cross peoples lawns to get to the sidewalks to the south of town. On the other side there's a sidewalk it goes south into town and north to E. Yates Center Rd.

Beth Miller, Town of Ridgeway, said I'm the supervisor on the second shift at H.H. Dobbins. Two years ago when I was told that I would be getting some new crew members that spoke Spanish, my fear was being able to speak to them to give them instructions on what to do. As soon as I walked in to meet them, they smiled at me and it took a big weight off my shoulders, they were ready willing and able to work. They've gone above and beyond and have become like family members not just coworkers.

Jeff Toussaint, Town of Ridgeway, said I have grown up around migrant workers my whole life. I have invested in building housing for them. There are codes and lists of requirements that have to be followed that pertain to the number of square footage of bedrooms and the number of bathrooms you have to have. They are not only checked prior to the season but during the season to make sure it's being kept up.

Anne Hyndman, Town of Yates, said she would like to reiterate what Russ Bentley said about the up keep. The area is like a wind tunnel and everything ends up in the yard so I do have a concern for the up keep. Have lived in Lyndonville most of my adult life and I think you have to take people one at a time. I don't really mind the project but I'm afraid of what the property might look like in 5 to 10 years.

Richard Fisk, Town of Yates, spoke about the hobo's that came to the area by railroad back in the 50's and 60's. The merchants and farmers were happy to see them; they picked apples and worked on the farms. I do not remember any problems with these people at the time and I do not see any difference between that situation and the situation today.

Russ Bentley, Town of Yates, said they will build this building to code, Jeff Toussaint was right. They're going to come in and inspect before, during, and after, they're going to make sure the place is clean. I'm not afraid of those men and they respect me.

Chris Albone, Town of Yates, said he has lived here his whole life and has never had issues with migrant workers however what they are proposing is a little bit different. They're going to put a lot of people in one place and putting 5 people to a room, thirty men in a house is a little concerning. It's bad over there and understands why they want to come here. The concern is that one might slip through the cracks, one big mistake and you have a serious problem. Think that sticking too many together will just be trouble.

Brooke Wells, Village of Lyndonville, is concerned with what if something happens, for instance a fight breaks out, what is Dobbins going to do? The sidewalk ends at my house, these guys have to walk to and from town, are they going to cut through my yard? What if my dog bites someone?

Justin Whipple, Hamlin, NY, said he would like to share a couple of experiences he's had throughout his life. I've been involved in agriculture pretty much my entire life. With these experiences it might help calm some people's concerns. From my house if you take about a 2 mile radius I have 5 labor camps around my house and one is being built now so there will be 6. The closest labor house to mine is about 900 ft.; we've been there for 13 years and never had and issues what so ever with any of those camps. They have been very polite and respectful.

Linda Fisk, Town of Yates, spoke about there being no difference in people whether they are white or brown and the fact that the only difference is that they are brown. They do the same things we do.

Jim Simon, Town of Yates, thanked both the Planning and Zoning Boards for working through this process and H.H. Dobbins for their patience and for providing information. He strongly encouraged both the Planning & Zoning Boards to take the County Planning Board's recommendations. They recommended that the Town of Yates Planning and Zoning Board of Appeals, H.H. Dobbins and both attorneys meet with NYS Agriculture and Markets to sort whether or not H2A and H2B workers live in the same place. A formal review needs to be done.

Ted Lewis, Village of Lyndonville, asked the board to take into consideration the school and the student's safety.

Terry Chaffee, Village of Lyndonville, stated that if you pay a livable wage, people will work.

Harold Suhr, Town of Yates, said Dobbins is going to sell out they are a 4th generation business and are going to sell out their family business because they don't want it anymore. Have a business down the road and have been here for 43 years and plan on turning it over to my grandson. I hope something like this doesn't run me out of business so I don't have something for my grandson. Am I a racist, no, I'm a realist.

Chairman Richard Kurz asked if anyone else would like to speak. There will be one week to receive any letters if anyone would like to submit to the Town Clerk's office and will look at them at the next meeting.

Andrew Meier, Town Attorney, Will extend that to Friday May 12th by 4:00 pm.

NO FURTHER BUSINESS WAS DISCUSSED.

Chairman Richard Kurz entertained a motion to adjourn the public hearing.

Offered by: Joanne Suhr
Seconded by: Mark Hughes

Votes: 4 Ayes (Suhr, Hughes, Smith, Kurz,); 0 Nays (1 absent Urbanik)

May 9, 2023

Town of Yates
Town of Yates Planning Board
Town of Yates Zoning Board of Appeals
8 South Main Street
Lyndonville, NY 14098

Re: Proposed migrant facility behind 1692 North Lyndonville Road

Dear Town of Yates, Town of Yates Planning Board and Town of Yates Zoning Board of Appeals,

After attending the public hearing on May 4, 2023 I have some concerns regarding the proposed migrant facility behind 1692 North Lyndonville Road.

Yes the majority of us have grown up with farm labor around us and its and important resource for the farmers. It is essential for farming but the requested site is not appropriate for the following reasons.

In my training as a Zoning Board of Appeals member for the Village of Lyndonville this is a self created hardship as H.H. Dobbins owns other property options available to build this facility. The multiple dwelling facility would create conditions distinctly different from the current residential character of the Hamlet of Yates Center and the Village of Lyndonville. A multiple dwelling of 30 people regardless of race placed in a facility that size if granted, will alter the character of the neighborhood being in such close proximity of the two residential areas.

The lack of maintenance of the current owned property at 1692 North Lyndonville Road, 1651 North Lyndonville Road, 96 West Avenue and 67 West Avenue is also a concern. H.H. Dobbins did recently make an effort to address some of the issues that were presented at the public hearing, but there truly are more property maintenance issues that need to be addressed.

I also have concerns with what the laborers quality of life will be living in a facility with no dining area or common space for relaxation with 5 men eating and sleeping in a bedroom. What will they do after work with no yard space available to them for recreation? If you notice other labor facilities have yard area for playing soccer, picnicking and playing of loud music. There is a labor facility on Mill Road and we live on South Main Street and can hear their loud music playing some evenings.

Another safety issue is the current access road to where the facility will be located is very narrow and not well maintained for the passage of emergency vehicles such as fire trucks, ambulance and law enforcement in the event that it is needed. It is nothing more than a dirt lane with minimal clearance for them to gain access to the facility.

In closing by granting this variance it will totally alter the character of the two bordering communities. Thank you for your sincere consideration in this matter. Please be empathic to all parties involved, the applicant, the neighborhood, and the laborers too; in your decision to of the variance and building permit.

A very concerned resident

Carla Woodworth

Carla Woodworth

Message from Sheila Dobbins

(Wife of Ward Dobbins-4th generation owner-grower)

I deeply regret I am unable to be in attendance at this meeting tonight but wanted to share my personal experience of my relationship with our employees from Jamaica and Latin America.

Our core crew has been coming here since 2012. In that time I have assisted them with paperwork, driven them and accompanied them to appointments and lived directly across the street from them. I have found them to be polite, respectful, and courteous neighbors. Whenever I have extended any kindness they have always been so appreciative. At one of the last meetings, some people expressed concern about "What do they do in their free time". I believe the answer to that is what does anyone do in their free time? They go shopping, cook meals, play games, go to Church. Several of our men are devout Seventh Day Adventists and are active in their church.

My husband's great grandfather started this company in 1905. It has evolved much over the last 100+ years. We have had to make substantial investments to keep up with trends in retail and technology. The lack of domestic workers has always been a challenge but even more so post pandemic. We consider ourselves most fortunate to be able to employ this group of hard-working individuals. We want them to have a nice place to live. We are in an agricultural district. I truly hope and pray that you can understand the value they bring to the community and appreciate the work they do.

Thank you.

Sheila Dobbins

I have lived in the Town of Yates my entire life, grew up on a farm and worked on a farm after high school. The Town of Yates agricultural community is very prominent in our town.

Dobbins has been in our community since the 1960's. They currently employ around 60 employees in their packing house on West Avenue. Out of those 60 employees, 20 of them are H2B employees that are here as part of the Federal H2B program.

The Dobbins farm employs around 43 employees. Out of those 43 employees, 35 of them are H2A employees that are here as part of the Federal H2A program. The Dobbins farm consists of 280+ acres of apple orchards and is continually growing.

Due to current unemployment rates and the struggles that all companies in Western NY face in hiring, without the H2A and H2B workers, Dobbins, like many other agricultural farms and companies, would struggle to produce their products and could face losing customers.

One of the positions in my job is hiring. The challenges Dobbins faces are not a lack of response to the job ads but a lack of response to phone calls and emails to set up interviews.

For every 4 interviews that are set up, 1 in 4 applicants will show up, if any.
For every applicant interviewed and offered a position, 2 in 4 applicants will show up for their first day, if any.

With the hiring issues Dobbins, our community, and our country faces, the H2A and H2B workers allow Dobbin's packing house and farms to produce the maximum amount of product to satisfy their customers and growers. These workers from Honduras, Mexico and Jamacia really are valuable employees, not just to Dobbins but to many of the other local farmers we have in our town, county, and state. These workers live here now and are already a part of our community and have been here without incident for years.

I believe the Town planning board and the Town of Yates board are creating an undue hardship by not letting Dobbins use their new labor housing building to house these workers year-round. The May to November time frame should not be a restriction that is set upon our agricultural community to limit what months they are allowed to farm.

I would like to thank the Dobbins family and owners for all their support to my community over the years with their donations to the Library, Fireworks fund, Little League teams, the Veterans, Lions Club, and the Lyndonville Music Boosters.

Respectfully submitted

Sue Seefeldt- Town of Yates Resident

Sue Seefeldt

May 12, 2023

Town of Yates Planning Board and Zoning Board of Appeals
8 South Main Street
Lyndonville, New York 14098

Re: H.H. Dobbins & Son LLC Response to Public Concerns Raised at May 4, 2023 Joint Meeting of the Town of Yates Planning Board and Zoning Board of Appeals

To the Town of Yates Planning Board and Zoning Board of Appeals:

H.H. Dobbins & Son LLC ("Dobbins") originally submitted applications for a Special Use Permit and Site Plan review on January 6, 2023 for farm worker housing on property owned by Dobbins. Since its initial application, Dobbins has made several revisions to the proposed site plan to accommodate comments it received following a meeting with the Town of Yates Planning Board ("Planning Board") on February 2, 2023, a joint meeting of the Town Board of the Town of Yates and the Planning Board held on March 6, 2023, and a subsequent meeting with the Planning Board held on April 11, 2023.

Dobbins provided additional information when the Planning Board referred Dobbins' applications to the Orleans County Planning Board and at a joint meeting between the Planning Board and the Town of Yates Zoning Board of Appeals ("ZBA") on May 4, 2023. Among other topics, public comments regarding pedestrian safety, building standards, property maintenance, and farm worker wages were made during the May 4 Meeting to which Dobbins wishes to respond via this letter.

A. The Location of the Proposed Migrant Farm Worker Housing Does Not Pose Pedestrian Safety Issues

At the May 4 Meeting, two public commentators stated that the lack of sidewalk on the western side of State Route 63 (Lyndonville Road) presents a safety concern for the farm workers to be housed on Dobbins' property. These commentators argued that farm workers wishing to

visit Yates Center ("Hamlet") or the Village would be forced to either cross the "busy" and "dangerous" Lyndonville Road to use the sidewalk on the eastern side of the road or use the shoulder on the western side of the road. One commentator went so far as to suggest that the Planning Board should require Dobbins to construct a sidewalk as a condition to site plan / special use permit approval.

The location of the proposed housing presents no pedestrian safety concerns, so requiring Dobbins to construct a sidewalk would be unreasonable. There are various safe passages for Dobbins' migrant farm workers to travel to the Hamlet and the Village via foot or bicycle. There is a forty-two (42) inch wide sidewalk on the eastern side of Lyndonville Road, which runs unobstructed to the north and south directly across from Dobbins' property. In addition, there is a seventy-two (72) inch wide shoulder on the western side of Lyndonville Road, which also provides a safe path from the project site south to the Village or north to the Hamlet. Commentators portrayed Lyndonville Road as a highly trafficked and dangerous route to cross. This is not the case. The speed limits in the Town and Village are relatively low -- 45 miles per hour and 30 miles per hour, respectively and the road has no curves in this area, allowing for excellent sight distance.

It is obvious to those familiar with the area that the stretch of Lyndonville Road that runs past Dobbins' property is not a high traffic area, and that migrant farm workers could easily cross the road if they wished to use the existing sidewalk. Pictures that showcase the existing walkways to and from the Village and Town and the speed limits on Lyndonville Road have been appended to this letter as Attachment "A." Furthermore, as indicated on the short Environmental Assessment Form submitted to the Town by Dobbins on April 19, 2023, Dobbins is committed to providing transportation for workers when needed and will be providing three (3) small buses / vans as a transportation option for its farm workers.

B. The Proposed Farm Worker Housing Will Comply with New York State Health and Safety Requirements and Building Standards

One commentator at the May 4 Meeting implied that Dobbins intends to house its farm workers in a structure akin to a barn, instead of a habitable building. Dobbins has the utmost respect for its farm workers and is going to spend a considerable amount of money to ensure that the proposed housing is a safe and clean space. The proposed housing will be heated in the winter, air conditioned in the summer, and will have sufficient bathing amenities -- amenities obviously associated with habitation, and not a barn.

As stated by one commentator, the proposed housing will be subject to specific New York State health, safety, and building requirements, which prevent employers from housing migrant works in unsafe lodging. For example, the proposed housing will be subject to a "pre-operational" inspection by the Department of Health, as well as periodic inspections during operation. In

addition, Dobbins must obtain a state operating permit for the proposed housing and show that the proposed housing has sufficient fire safety mechanisms, sufficient water supply, etc. Interior photos of recently constructed labor housing that is similar in nature to the interior of housing that Dobbins intends to construct are appended to this letter as Attachment "B."

With respect to fire safety and emergency access, Dobbins has consulted with the former Fire Chief, Ben Bane, who has over 15 years experience who confirmed that the access easement

Dobbins has over the adjacent property to the south is wide enough for emergency vehicles. Mr. Bane did indicate that additional compacted gravel may need to be added to that portion of the driveway on Dobbins' land that curves around an existing building and leads to the proposed housing. Dobbins will of course follow and comply with all requirements to ensure safe access to the proposed housing.

C. Dobbins Pays its Workers a Living Wage

Between February and March 2023, H.H. Dobbins Inc. (the apple packing entity) employed 81 employees (61 local workers and 20 H2B apple packers) and Dobbins employed 15 employees (3 local workers and 12 H2B workers). The H2A and H2B workers perform the most physically demanding work, while most of our local workers perform managerial, machine operator and administrative jobs. To allow retailers to sell apples at prices that are competitive with apple sales from other states, Dobbins must maintain certain pricing and wage levels.

Several commentators at the May 4 Meeting claimed that Dobbins does not pay its farm workers a living wage and that Dobbins is simply looking to employ "cheap labor." Nothing could be further from the truth. In fact, Dobbins pays the highest agriculture wages east of the Mississippi River. For example, from December 2022 through February 2023, Dobbins paid $1.2 million in wages, with $1 million being paid to local workers. During this period, local workers involved in the apple packing operations averaged $900 - $1,000 per week in wages. Without the hard work of H2A and H2B workers, higher paying jobs for local workers would not be possible.

D. Dobbins Maintains its Current Migrant Farm Worker Housing and Will Maintain the Proposed Housing

A commentator at the May 4 Meeting claimed that Dobbins has not kept up with property maintenance at another property operated by Dobbins, located at 1657 North Lyndonville Road, implying that Dobbins will not maintain the proposed farm worker housing. Neither is true. Over the last two years, Dobbins has made significant improvements to the property at 1657 North Lyndonville Road, which may not be noticeable from the outside. For example, Dobbins has repaired the building's foundation and east facing driveway and rehabilitated and expended the septic system. Additionally, Dobbins remodeled and

improved sleeping quarters in the building, installed gutters, repaired siding, and installed a new grease trap. While these additions and repairs may not be flashy, they are required to maintain the integrity of the building and the comfort and safety of the men who reside on the property. As stated above, Dobbins will be investing significant funds into the proposed housing and will ensure that the property is maintained.

Finally, as Dobbins is committed to being a good neighbor, I would welcome anyone who has concerns or questions to contact me. My contact details are below:

Mailing Address: PO Box 503
99 West Avenue
Lyndonville, NY 14098

Email address: brett@unitedapplesales.com

Office number: (585) 765-2460

Mobile number: (716) 579-2643

At this time, Dobbins respectfully requests that the ZBA approve any required variances and that the Planning Board (i) approve the site plan and (ii) issue the requested special use permit to allow Dobbins to construct and use suitable farm labor housing that will allow its farming operations to remain competitive while continuing to support the community. Thank you for your consideration of this matter.

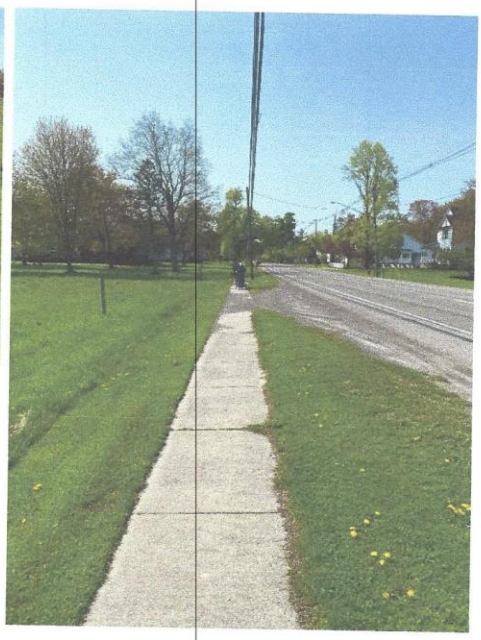
Sincerely,

Brett Baker
Dobbins President and Shareholder

ATTACHMENT A

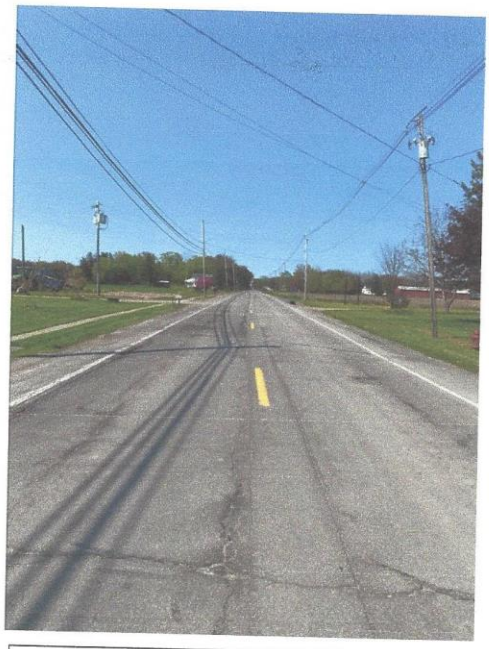


Picture 1: 42" sidewalk on the eastern side of Lyndonville Road.

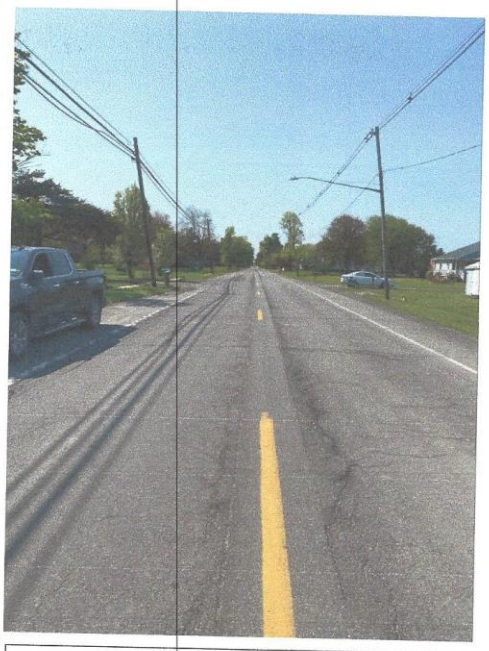




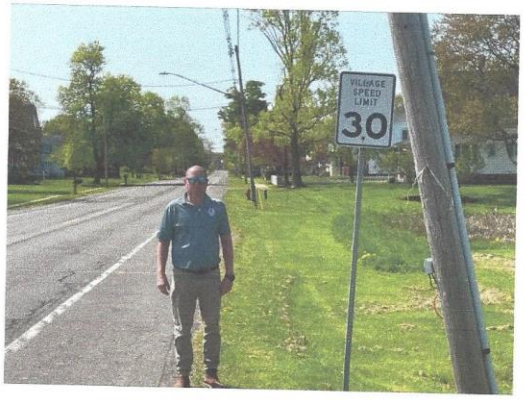




Picture 5: Clear view from Dobbins' property to the north on Lyndonville Road.



Picture 6: Clear view from Dobbins' property to the south on Lyndonville Road.





Picture 7: Clear view from Dobbins' property to the south on Lyndonville Road.

Picture 8: Clear view from Dobbins' property to the north on Lyndonville Road.

ATTACHMENT B

