

*CITY OF BEACON*  
*One Municipal Plaza - Courtroom*  
*BEACON, NEW YORK 12508*  
*Phone (845) 838-5002 Fax (845) 838-5026*

The Zoning Board of Appeals will meet on **Tuesday, October 17, 2017** in the Municipal Center Courtroom. A workshop/training session will take place at 7:00 p.m. and the regular meeting starts at 7:30 PM.

1. Continue review of application submitted by Highview Development, LLC, 226 Main Street, Tax Grid No. 30-5954-27-860918-00, CMS Zoning District, to construct a new building which requires relief from Section 223-41.18(D)(5) for a 10 ft. rear yard setback *(25 ft. required)* and Section 223-41.18(F)(2)(a) to provide no off-street parking spaces *(8 off-street spaces required)*
2. **Item postponed at request of applicant**  
Application submitted by 475 Main Street Beacon, LLC, Tax Grid No. 30-6054-37-076730-00, CB Zoning District, for relief from Section 223-26(F) for a building addition to expand existing office use with existing Main Street retail with zero parking spaces *(14 required)*
3. Application submitted by Sara Taylor, 34 Spring Valley Street, Tax Grid No. 30-6054-38-174676-00, R1-5 Zoning District, for relief from Section 223-17(C) for a Use Variance to allow a florist shop on the ground level of the building
4. Application submitted by Willy Kingler Bercy, 13 East Street, Tax Grid No. 30-6054-39-255696-00, R1-5 Zoning District, for relief from Section 223-17(C) to allow construction of a rear addition with 4.8 ft. side yard setback *(10 ft. required)*
5. **Item postponed pending SEORA action**  
Continue review of application submitted by Scenic Beacon Developments, LLC, 22 Edgewater Place, Tax Grid No.'s 30-5954-25-581985, 574979, & 566983-00; and 30-5955-19-590022-00, RD-1.7 Zoning District, seeking relief from Section 223-17(C) to construct a new residential development as follows:
  - 1) Allow buildings to have 5 stories *(4.5 maximum permitted)*
  - 2) Allow buildings to exceed 36 units per building
  - 3) Allow less than 30 ft. between buildings

**City of Beacon Planning Board**  
**10/17/2017**

**Title:**

**226 Main Street**

**Subject:**

Continue review of application submitted by Highview Development, LLC, 226 Main Street, Tax Grid No. 30-5954-27-860918-00, CMS Zoning District, to construct a new building which requires relief from Section 223-41.18(D)(5) for a 10 ft. rear yard setback (*25 ft. required*) and Section 223-41.18(F)(2)(a) to provide no off-street parking spaces (*8 off-street spaces required*)

**Background:**

**ATTACHMENTS:**

Description	Type
226 Main Application	Application
226 Main EAF	EAF
226 Main Site Plan	Plans
226 Main Exhibit A	Backup Material
226 Main Exhibit B	Backup Material
226 Main Cover Letter	Cover Memo/Letter
Supplemental Information 10/13/2017	Backup Material



# ZONING BOARD OF APPEALS

City of Beacon, New York

## Application for Appeal

APPLICANT: Highview Development, LLC ADDRESS: 445 Main Street

Beacon, NY 12508 TELEPHONE: (845) 765-0063

REPRESENTED BY: Aryeh Siegel Architect ADDRESS: 84 Mason Circle

Beacon, NY 12508 TELEPHONE: 845-838-2490

LOCATION: 226 Main Street ZONING DISTRICT: CMS

TAX MAP: SECTION 5954 BLOCK 27 LOT 860918

### DECISION APPEALED FROM, OR INTERPRETATION DESIRED:

Relief from Zoning Code Section 223-41.18 (D)(5) Rear Yard setback requirement of 25 feet, to allow a setback of 10 feet.

Relief from Zoning Code Section 223-41.18 (F)(2)(a) requirement for 1 parking space per residential unit, to allow zero parking spaces

### REASON SUPPORTING REQUEST:

The lot size does not support the full 25 foot setback. It is not feasible to build the project if the

setback is more than 10 feet. There is no room for off-street parking on the property

There are municipal parking lots within 800 feet of the property. There is adequate street parking.

### SUPPORTING DOCUMENTS SUBMITTED HERewith: (Site Plan, Survey, etc. as required)

Site Plan and survey.

June 27, 2017

Date

Owner's Signature

Fee: \$100 with application

Applicant's Signature

# APPLICATION PROCESSING RESTRICTION LAW

## Affidavit of Property Owner

Property Owner: 328 Main Street LLC

If owned by a corporation, partnership or organization, please list names of persons holding over 5% interest.

List all properties in the City of Beacon that you hold a 5% interest in:

Applicant Address: 445 Main Street, Beacon, NY

Project Address: 226 Main Street, Beacon, NY

Project Tax Grid # 5954-27-86091

Type of Application Special Use Permit Site Plan

Please note that the property owner is the applicant. "Applicant" is defined as any individual who owns at least five percent (5%) interest in a corporation or partnership or other business.

I, Brendan McAlpine, the undersigned owner of the above referenced property, hereby affirm that I have reviewed my records and verify that the following information is true.

1. No violations are pending for ANY parcel owned by me situated within the City of Beacon
2. Violations are pending on a parcel or parcels owned by me situated within the City of Beacon
3. ALL tax payments due to the City of Beacon are current
4. Tax delinquencies exist on a parcel or parcels owned by me within the City of Beacon
5. Special Assessments are outstanding on a parcel or parcels owned by me in the City of Beacon
6. ALL Special Assessments due to the City of Beacon on any parcel owned by me are current

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>



Signature of Owner

Member

Title if owner is corporation

Office Use Only:	NO	YES	Initial
Applicant has violations pending for ANY parcel owned within the City of Beacon (Building Dept.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>gm</u>
ALL taxes are current for properties in the City of Beacon are current (Tax Dept.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>gm</u>
ALL Special Assessments, i.e. water, sewer, fines, etc. are current (Water Billing)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>gm</u>

**Full Environmental Assessment Form**  
**Part 1 - Project and Setting**

**Instructions for Completing Part 1**

**Part 1 is to be completed by the applicant or project sponsor.** Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1 is accurate and complete.

**A. Project and Sponsor Information.**

Name of Action or Project: 226 Main Street		
Project Location (describe, and attach a general location map): 226 Main Street, at the corner of North Elm		
Brief Description of Proposed Action (include purpose or need): Demolition of existing 1 story service garage building. New construction of 4 story multifamily residential building with retail at the 1st floor		
Name of Applicant/Sponsor: 328 Main Street LLC		Telephone: (845) 765-0063
		E-Mail: bmc Alpine@highviewdevelopment.com
Address: 445 Main Street		
City/PO: Beacon	State: NY	Zip Code: 12508
Project Contact (if not same as sponsor; give name and title/role): Same as sponsor		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

**B. Government Approvals****B. Government Approvals Funding, or Sponsorship.** ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, <input type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Planning Board - Special Use Permit	April 25, 2017
c. City Council, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
e. County agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
f. Regional agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
i. Coastal Resources. i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No iii. Is the project site within a Coastal Erosion Hazard Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

**C. Planning and Zoning****C.1. Planning and zoning actions.**

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐ Yes ☒ No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part I

**C.2. Adopted land use plans.**

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☐ Yes ☒ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☐ Yes ☒ No

If Yes, identify the plan(s):

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c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☒ No

If Yes, identify the plan(s):

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### C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☒ Yes ☐ No

If Yes, what is the zoning classification(s) including any applicable overlay district?

Central Main Street District, Parking Overlay District

b. Is the use permitted or allowed by a special or conditional use permit? ☒ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☒ No

If Yes,

i. What is the proposed new zoning for the site? \_\_\_\_\_

### C.4. Existing community services.

a. In what school district is the project site located? Beacon City

b. What police or other public protection forces serve the project site?

Beacon City

c. Which fire protection and emergency medical services serve the project site?

Beacon City

d. What parks serve the project site?

Memorial Park

### D. Project Details

#### D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Residential and Commercial

b. a. Total acreage of the site of the proposed action? 0.126 acres

b. Total acreage to be physically disturbed? 0.126 acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 0.126 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☒ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % \_\_\_\_\_ Units: \_\_\_\_\_

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☒ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No

iii. Number of lots proposed? \_\_\_\_\_

iv. Minimum and maximum proposed lot sizes? Minimum \_\_\_\_\_ Maximum \_\_\_\_\_

e. Will proposed action be constructed in multiple phases? ☐ Yes ☒ No

i. If No, anticipated period of construction: \_\_\_\_\_ months

ii. If Yes:

- Total number of phases anticipated \_\_\_\_\_

- Anticipated commencement date of phase 1 (including demolition) \_\_\_\_\_ month \_\_\_\_\_ year

- Anticipated completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year

- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: \_\_\_\_\_

f. Does the project include new residential uses? ☒ Yes ☐ No  
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	8
At completion of all phases	_____	_____	_____	8

g. Does the proposed action include new non-residential construction (including expansions)? ☒ Yes ☐ No  
 If Yes,

i. Total number of structures 1

ii. Dimensions (in feet) of largest proposed structure: 48' height; 84' width; and 56' length

iii. Approximate extent of building space to be heated or cooled: 12,000 square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐ Yes ☒ No  
 If Yes,

i. Purpose of the impoundment: \_\_\_\_\_

ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐ Other specify: \_\_\_\_\_

iii. If other than water, identify the type of impounded/contained liquids and their source. \_\_\_\_\_

iv. Approximate size of the proposed impoundment. Volume: \_\_\_\_\_ million gallons; surface area: \_\_\_\_\_ acres

v. Dimensions of the proposed dam or impounding structure: \_\_\_\_\_ height; \_\_\_\_\_ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): \_\_\_\_\_

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐ Yes ☒ No  
 (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)  
 If Yes:

i. What is the purpose of the excavation or dredging? \_\_\_\_\_

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): \_\_\_\_\_
- Over what duration of time? \_\_\_\_\_

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. \_\_\_\_\_

iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No  
 If yes, describe. \_\_\_\_\_

v. What is the total area to be dredged or excavated? \_\_\_\_\_ acres

vi. What is the maximum area to be worked at any one time? \_\_\_\_\_ acres

vii. What would be the maximum depth of excavation or dredging? \_\_\_\_\_ feet

viii. Will the excavation require blasting? ☐ Yes ☐ No

ix. Summarize site reclamation goals and plan: \_\_\_\_\_

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☒ No  
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): \_\_\_\_\_

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will proposed action cause or result in disturbance to bottom sediments?

☐ Yes ☐ No

If Yes, describe:

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation?

☐ Yes ☐ No

If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

v. Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

c. Will the proposed action use, or create a new demand for water?

☒ Yes ☐ No

If Yes:

i. Total anticipated water usage/demand per day: \_\_\_\_\_ 1,708 gallons/day

ii. Will the proposed action obtain water from an existing public water supply?

☒ Yes ☐ No

If Yes:

- Name of district or service area: City of Beacon
- Does the existing public water supply have capacity to serve the proposal? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No
- Do existing lines serve the project site? ☒ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project?

☐ Yes ☒ No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_
- Source(s) of supply for the district: \_\_\_\_\_

iv. Is a new water supply district or service area proposed to be formed to serve the project site?

☐ Yes ☐ No

If Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

v. If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_

vi. If water supply will be from wells (public or private), maximum pumping capacity: \_\_\_\_\_ gallons/minute.

d. Will the proposed action generate liquid wastes?

☒ Yes ☐ No

If Yes:

i. Total anticipated liquid waste generation per day: \_\_\_\_\_ 1,708 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_

Sanitary wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities?

☒ Yes ☐ No

If Yes:

- Name of wastewater treatment plant to be used: City of Beacon
- Name of district: City of Beacon
- Does the existing wastewater treatment plant have capacity to serve the project? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No

<ul style="list-style-type: none"> <li>• Do existing sewer lines serve the project site? _____</li> <li>• Will line extension within an existing district be necessary to serve the project? _____</li> </ul> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Describe extensions or capacity expansions proposed to serve this project: _____</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? _____</p> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Applicant/sponsor for new district: _____</li> <li>• Date application submitted or anticipated: _____</li> <li>• What is the receiving water for the wastewater discharge? _____</li> </ul>	
<p>v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans): _____</p>	
<p>vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____</p>	
<p>e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? _____</p> <p>If Yes:</p> <p>i. How much impervious surface will the project create in relation to total size of project parcel?</p> <p style="margin-left: 40px;">_____ Square feet or _____ acres (impervious surface)</p> <p style="margin-left: 40px;">_____ Square feet or _____ acres (parcel size)</p> <p>ii. Describe types of new point sources. _____</p> <p>iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____</p> <p style="margin-left: 40px;">• If to surface waters, identify receiving water bodies or wetlands: _____</p> <p style="margin-left: 40px;">• Will stormwater runoff flow to adjacent properties? _____</p>	
<p>iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? _____</p>	
<p>f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? _____</p> <p>If Yes, identify:</p> <p>i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) _____</p> <p>ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) _____</p> <p>iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) _____</p>	
<p>g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? _____</p> <p>If Yes:</p> <p>i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____</p> <p>ii. In addition to emissions as calculated in the application, the project will generate:</p> <ul style="list-style-type: none"> <li>• _____ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)</li> <li>• _____ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)</li> <li>• _____ Tons/year (short tons) of Perfluorocarbons (PFCs)</li> <li>• _____ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)</li> <li>• _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)</li> <li>• _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)</li> </ul>	



h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐ Yes ☒ No

If Yes:

i. Estimate methane generation in tons/year (metric): \_\_\_\_\_

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): \_\_\_\_\_

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i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐ Yes ☒ No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): \_\_\_\_\_

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j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐ Yes ☒ No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐ Weekend  
☐ Randomly between hours of \_\_\_\_\_ to \_\_\_\_\_.

ii. For commercial activities only, projected number of semi-trailer truck trips/day: \_\_\_\_\_

iii. Parking spaces: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ Net increase/decrease \_\_\_\_\_

iv. Does the proposed action include any shared use parking? ☐ Yes ☐ No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: \_\_\_\_\_

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vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐ Yes ☐ No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐ Yes ☐ No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐ Yes ☐ No

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k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☒ Yes ☐ No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: \_\_\_\_\_  
Approximately 120,000 kwh/year

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):  
Grid/Local Utility

iii. Will the proposed action require a new, or an upgrade to, an existing substation? ☐ Yes ☐ No

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l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: \_\_\_\_\_
- Saturday: \_\_\_\_\_
- Sunday: \_\_\_\_\_
- Holidays: \_\_\_\_\_

ii. During Operations:

- Monday - Friday: \_\_\_\_\_ 7am-10pm
- Saturday: \_\_\_\_\_ 7am-10pm
- Sunday: \_\_\_\_\_ 7am-10pm
- Holidays: \_\_\_\_\_ 7am-10pm

<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration:  <u>All noise associated (machinery, power tools, etc) with the construction of a 4 story apartment building during 8 AM to 4 PM, Monday through Friday.</u></p>	
<p>ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>Describe: _____</p>	
<p>n.. Will the proposed action have outdoor lighting? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes:</p> <p>i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:  <u>Outdoor lighting at 1st floor entrance doors to retail spaces, and residential lobby. 8' high, shielded to prevent light spill onto neighboring properties</u></p>	
<p>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>Describe: _____</p>	
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____</p> <p>_____</p> <p>_____</p>	
<p>p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Product(s) to be stored _____</p> <p>ii. Volume(s) _____ per unit time _____ (e.g., month, year)</p> <p>iii. Generally describe proposed storage facilities: _____</p> <p>_____</p>	
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe proposed treatment(s):</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p>ii. Will the proposed action use Integrated Pest Management Practices? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe any solid waste(s) to be generated during construction or operation of the facility:</p> <ul style="list-style-type: none"> <li>• Construction: _____ tons per _____ (unit of time)</li> <li>• Operation : _____ tons per _____ (unit of time)</li> </ul> <p>ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul> <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul>	

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_

ii. Anticipated rate of disposal/processing:

- \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or
- \_\_\_\_\_ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: \_\_\_\_\_ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_

ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_

iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: \_\_\_\_\_

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: \_\_\_\_\_

#### E. Site and Setting of Proposed Action

**E.1. Land uses on and surrounding the project site**

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☒ Urban ☐ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)

☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): \_\_\_\_\_

ii. If mix of uses, generally describe:

Main Street commercial and multifamily residential; single family residential

b. Land uses and coverytypes on the project site.

Land use or Coverytype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0.126 acres	0.126 acres	0
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation? ☐ Yes ☒ No  
i. If Yes: explain: \_\_\_\_\_

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☐ Yes ☒ No  
If Yes,  
i. Identify Facilities: \_\_\_\_\_  
\_\_\_\_\_

e. Does the project site contain an existing dam? ☐ Yes ☒ No  
If Yes:  
i. Dimensions of the dam and impoundment:  
• Dam height: \_\_\_\_\_ feet  
• Dam length: \_\_\_\_\_ feet  
• Surface area: \_\_\_\_\_ acres  
• Volume impounded: \_\_\_\_\_ gallons OR acre-feet  
ii. Dam's existing hazard classification: \_\_\_\_\_  
iii. Provide date and summarize results of last inspection: \_\_\_\_\_  
\_\_\_\_\_

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐ Yes ☒ No  
If Yes:  
i. Has the facility been formally closed? ☐ Yes ☐ No  
• If yes, cite sources/documentation: \_\_\_\_\_  
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: \_\_\_\_\_  
\_\_\_\_\_  
iii. Describe any development constraints due to the prior solid waste activities: \_\_\_\_\_  
\_\_\_\_\_

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐ Yes ☒ No  
If Yes:  
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: \_\_\_\_\_  
\_\_\_\_\_

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☒ Yes ☐ No  
If Yes:  
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☒ Yes ☐ No  
☒ Yes – Spills Incidents database Provide DEC ID number(s): 9309180, 1700416  
☐ Yes – Environmental Site Remediation database Provide DEC ID number(s): \_\_\_\_\_  
☐ Neither database  
ii. If site has been subject of RCRA corrective activities, describe control measures: \_\_\_\_\_  
\_\_\_\_\_

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☒ Yes ☐ No  
If yes, provide DEC ID number(s): B00130  
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):  
ID: 9309180; Closed  
1700416; Open  
B00130: Classification Code C -Completed

v. Is the project site subject to an institutional control limiting property uses? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
<ul style="list-style-type: none"> <li>• If yes, DEC site ID number: _____</li> <li>• Describe the type of institutional control (e.g., deed restriction or easement): _____</li> <li>• Describe any use limitations: _____</li> <li>• Describe any engineering controls: _____</li> <li>• Will the project affect the institutional or engineering controls in place? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></li> <li>• Explain: _____</li> </ul>	
<b>E.2. Natural Resources On or Near Project Site</b>	
a. What is the average depth to bedrock on the project site? _____ >6.5 feet	
b. Are there bedrock outcroppings on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %	
c. Predominant soil type(s) present on project site:	
Urban Land (Ur)	100 %
_____	_____ %
_____	_____ %
d. What is the average depth to the water table on the project site? Average: _____ >6.5 feet	
e. Drainage status of project site soils: <input type="checkbox"/> Well Drained: _____ % of site	
<input type="checkbox"/> Moderately Well Drained: _____ % of site	
<input checked="" type="checkbox"/> Poorly Drained 100 % of site	
f. Approximate proportion of proposed action site with slopes: <input checked="" type="checkbox"/> 0-10%: 100 % of site	
<input type="checkbox"/> 10-15%: _____ % of site	
<input type="checkbox"/> 15% or greater: _____ % of site	
g. Are there any unique geologic features on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes, describe: _____	
h. Surface water features.	
i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
ii. Do any wetlands or other waterbodies adjoin the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes to either i or ii, continue. If No, skip to E.2.i.	
iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
iv. For each identified regulated wetland and waterbody on the project site, provide the following information:	
• Streams: Name _____	Classification _____
• Lakes or Ponds: Name _____	Classification _____
• Wetlands: Name _____	Approximate Size _____
• Wetland No. (if regulated by DEC) _____	
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
If yes, name of impaired water body/bodies and basis for listing as impaired: _____	
i. Is the project site in a designated Floodway? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
j. Is the project site in the 100 year Floodplain? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
k. Is the project site in the 500 year Floodplain? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes:	
i. Name of aquifer: _____	

<p>m. Identify the predominant wildlife species that occupy or use the project site:</p> <p>Seasonal Birds _____</p> <p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>n. Does the project site contain a designated significant natural community? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p>_____</p> <p>ii. Source(s) of description or evaluation: _____</p> <p>iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> <li>• Currently: _____ acres</li> <li>• Following completion of project as proposed: _____ acres</li> <li>• Gain or loss (indicate + or -): _____ acres</li> </ul>	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>_____</p> <p>_____</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>_____</p> <p>_____</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p>	
<p><b>E.3. Designated Public Resources On or Near Project Site</b></p>	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes, provide county plus district name/number: _____</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>i. If Yes: acreage(s) on project site? _____</p> <p>ii. Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p>ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p> <p>_____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. CEA name: _____</p> <p>ii. Basis for designation: _____</p> <p>iii. Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes: <div style="margin-left: 20px;">           i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site    <input type="checkbox"/> Historic Building or District            ii. Name: _____            iii. Brief description of attributes on which listing is based: _____         </div>	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes: <div style="margin-left: 20px;">           i. Describe possible resource(s): _____            ii. Basis for identification: _____         </div>	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes: <div style="margin-left: 20px;">           i. Identify resource: _____            ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____            iii. Distance between project and resource: _____ miles.         </div>	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes: <div style="margin-left: 20px;">           i. Identify the name of the river and its designation: _____            ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666?         </div>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	

#### F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

#### G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Brandon McAlpine Date April 25, 2017

Signature  Title member

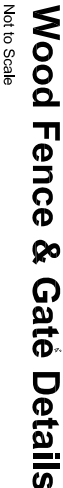




APPROVED BY RESOLUTION OF THE PLANNING BOARD OF THE CITY OF BEACON, NEW YORK, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, SUBJECT TO ALL REQUIREMENTS AND CONDITIONS OF SAID RESOLUTION, ANY CHANGE, ADDITION, MODIFICATION OR EXTENSION OF THIS PLAT, AS APPROVED SHALL VOID THIS APPROVAL.

SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY \_\_\_\_\_ CHAIRMAN \_\_\_\_\_ SECRETARY

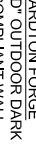
IN ASSANCE OF THE CHAIRMAN OR SECRETARY, THE ACTING CHAIRMAN OR ACTING SECRETARY RESPECTIVELY MAY SIGN IN THIS PLACE.



## Wood Fence & Gate Details

**HUBBARDTONE FORGE**  
"HOOD" OUTDOOR DARK  
SKY COMPLIANT WALL  
SCONCE #306563, 15" HIGH  
X 6 <sup>3</sup>/<sub>4</sub>" WIDE, BURNISHED  
STEEL FINISH, 60 W  
INCANDESCENT LAMP

**L1: Wall Mounted**



### L1: Wall Mounted

Not to Scale

PO Box 2, Beacon, NY 12508

Beacon, New York 12508

Beacon, New York 12508

Beacon, New York 12508

Beacon, New York 12508

PLANT SCHEDULE					
QUANTITY	KEY	BOTANIC NAME	COMMON NAME	SITE	COMMENTS
Shrubs					
	10				
	S-R	Rhododendron maximum	Rhododendron	30-36"	
Grass					
	ECO-LAWN				
		Buchloe dactyloides 'Texoka'	ECO Lawn		
	Seed	April-October planting			

lbs	ECO-LAWN	<i>Buchloe dactyloides</i> 'Texoka'	Eco Lawn	Seed	April-October planting
-----	----------	-------------------------------------	----------	------	------------------------

Not to Scale



Zoning District: Ordinance No.: Building Footprint: Proposed Use: Existing Use: Proposed Use:	OAS (Central Main Street) 04-2-060991 0.135241 acre 3,882 square feet No Automobile Service Station R-2 Residential / Retail	
Use & Parking Requirements	Proposed Use	Current Parking Requirement
<b>Residential</b> 1 space per apartment Retail 3 spaces per 1,000 sf of floor area	(8) apartments 8 parking spaces 3,460 sf 11 parking spaces	19 Parking Spaces 8 Parking Spaces See Table 1
<b>Total Required Parking Spaces</b>		
<b>Total Proposed Parking Spaces</b>		

Total Proposed Parking Spaces	of existing spaces
See Table 1	

1. There are public parking lots within 800' of the property.
2. The applicant proposes a new and separate of 10' inside of the required setback of 25'. This allows the building to be large enough to flexibly support the creation of a minimum number of apartments.
3. Apartments are proposed. Therefore, the project is not required to comply with Workforce Housing requirements.
4. Retail hours of operation: 7am - 10pm, Monday through Sunday, inclusive.

No signage is proposed as part of this application. Retail markets will apply separately to the Planning Board for this item. Signage

\_\_\_\_\_

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**Sheet 1 of 5 - Site Plan**

**226 Main Street**

Scale: 1" = 10'  
April 25, 2017

**Exhibit A**

**Dutchess County Department of Planning & Development,**  
**Response to City of Beacon Planning Board Referral for 226 Main Street**

MARCUS J. MOLINARO  
COUNTY EXECUTIVE



EOIN WRAFTER, AICP  
COMMISSIONER

**COUNTY OF DUTCHESS**  
DEPARTMENT OF PLANNING AND DEVELOPMENT

May 31, 2017

To: Planning Board, City of Beacon

Re: Referral # 17-165, 226 Main Street 4-story retail/MFR Building Special Permit and Site Plan  
Parcel: 5954-27-860918, Main Street

The Dutchess County Department of Planning and Development has reviewed the subject referral within the framework of General Municipal Law (Article 12B, Sections 239-l and 239-m).

**ACTION**

The applicant is seeking a special use permit and site plan approval for the demolition of an existing 1-story service garage building and the construction of a new 4-story multifamily residential building with retail on the 1<sup>st</sup> floor.

**COMMENTS**

The proposed redevelopment of this prominent corner on Main Street to a 4-story mixed use building with retail on the ground floor will result in a vast improvement in the appearance of this site and will add value to the parcel, and the City as a whole. The proposed site plan is in-keeping with the City's regulations for the Central Main Street (CMS) district and we commend the applicant in proposing a building that upholds these standards.

**Streetscape Improvements**

Currently, the site maintains two curb cuts, one on North Elm Street and a second on Main Street to allow vehicles to access the existing service garage. As part of this project, or in the future, we suggest these curb cuts be replaced with raised curbs to allow additional on-street parking immediately adjacent to the building. As part of that project, an additional street light and street tree could be added on Main Street to continue the existing streetscape improvements further west.

**Trash Enclosure**

Retail tenants could include a deli or coffee shop or other use that could generate large amounts of waste. We note that the doors to the enclosure open to the building and not the street, and so we question what kind of receptacles will be used as it does not appear that commercial trucks will be accessing the area. The Board should ensure that the trash enclosure is appropriately sized to allow for both garbage and recycling for both the retail and residential tenants.


Referral 17-165; 226 Main Street 4-story retail/MFR building special permit and site plan – page 2/2

**RECOMMENDATION**

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.

Eoin Wrafter, AICP  
Commissioner

By

A handwritten signature in black ink, appearing to read "Jennifer F. Cocozza", followed by a horizontal line.

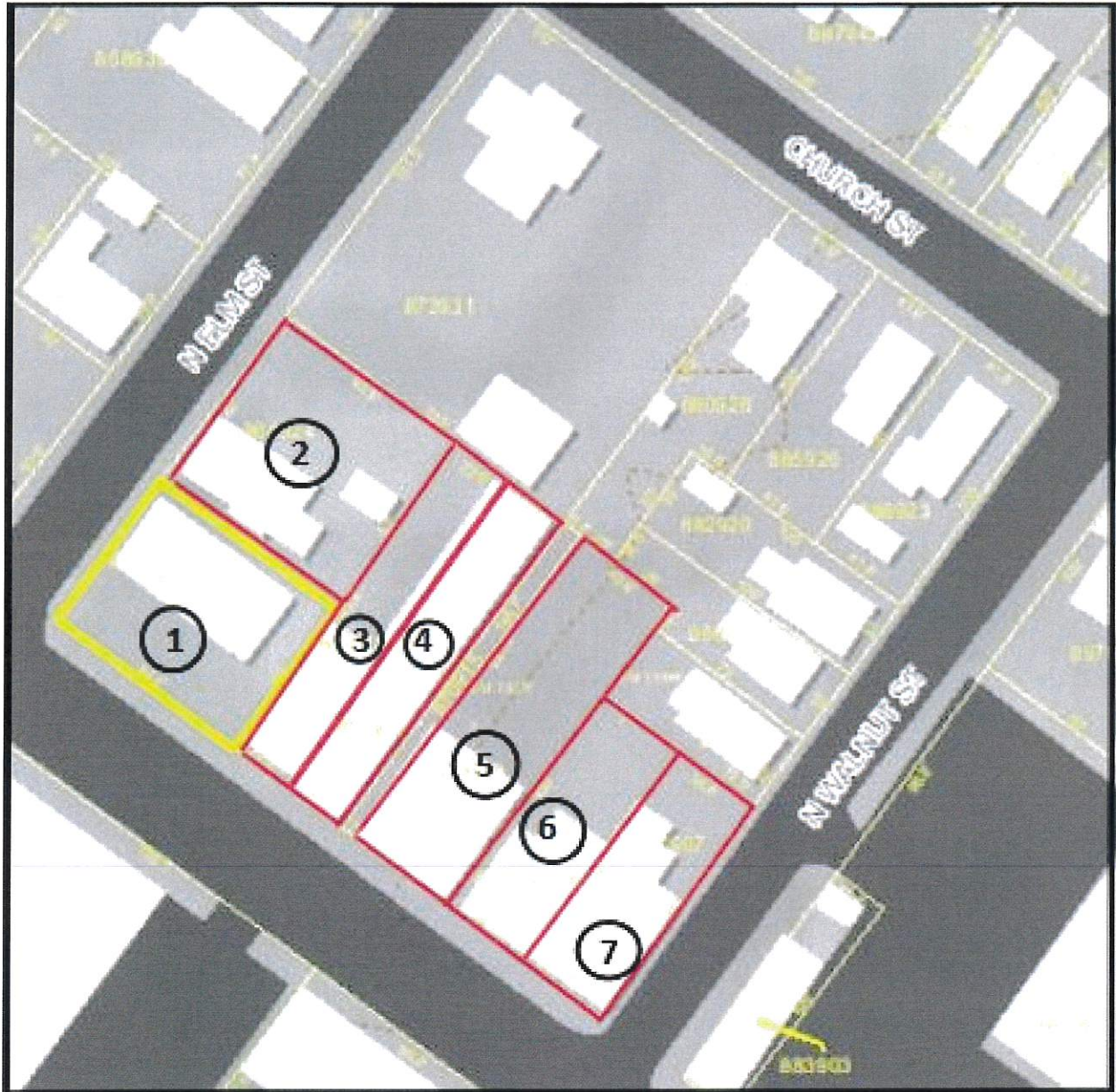
Jennifer F. Cocozza  
Deputy Commissioner

**Exhibit B**

**Comparable Lot Sizes within Same Block of 226 Main Street**

<b>No. (Map Key)</b>	<b>Address</b>	<b>SBL</b>	<b>Lot Size</b>
1	226 Main Street (the "Premises")	5294-27-860918	0.13 acres/ 5,663 SF
2	4 North Elm Street	5954-27-864924	0.15 acres/ 6,534 SF
3	232 Main Street	5954-27-867918	"23.4x146.2" = 0.08 acres/ 3,421 SF
4	234 Main Street	5954-27-869916	0.09 acres/ 3,920 SF
5	236-240 Main Street	5954-27-872913	0.15 acres/ 6,534 SF
6	242 Main Street	5954-27-874910	0.08 acres/ 3,485 SF
7 (Note: Corner Lot)	246 Main Street	5954-28-877907	0.08 acres/ 3,485 SF

Exhibit B Map







## ParcelAccess

1

## Final Roll

Parcel Grid Identification #:  
130200-5954-27-860918-0000  
Municipality: Beacon

### Parcel Location

226 Main St

Owner Name on March 1

Mc Garvey , Jeffery (P)

Primary (P) Owner Mail Address

272 Baxtertown Rd  
Fishkill NY 125240000



### Parcel Details

Size (acres): .13 Ac (C) Land Use Class: (430) Commercial: Motor Vehicle Services  
File Map: Agri. Dist.: (0)  
File Lot #: School District: (130200) Beacon City School District  
Split Town

### Assessment Information (Current)

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$115000	\$334700	\$334700	\$334700	\$334700	\$0

Tax Code:	Roll Section:	Uniform %:	Full Market Value:
N: Non-Homestead	1	100	\$ 334700

Tent. Roll:	Final. Roll:	Valuation:
5/1/2017	7/1/2017	7/1/2016

Last Sale/Transfer

Sale Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$0	0	1380	0238	()	0

### Site Information:

Site Number: 1

Water Supply:	Sewer Type:	Desirability:	Zoning Code:	Used As:
(3) Comm/public	(3) Comm/public	(3) Normal	CB	(G04) Auto srv ctr

## Commercial/Industrial/Utility Building Information:

Site Number: 1

Bldg Sec.: 1 Bldg. Number: 1

Year Built:	No. Stories:	Gross Floor Area:	Boeck Model	Const. Qual.:
1930	1	1860	(0109) 1 sty apt load sup	(2) Average

Air Cond. %:	Sprinkler %:	Alarm %:	No. Elevator:	Basement sf.:
0	0	0	0	0

Number Identical: 0      Condition Code: 3

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (G04) Auto srv ctr

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(10) Bays	1860	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
3	0	0	0

Improvements:

Site Number: 1

Improvement Number: 1

Structure Code:	Dim 1:	Dim 2	Quantity	Year Built
(OH1) Ovrhdoor-com	10	10	3	1960

Condition:	Grade	Sq. Ft.
(2) Fair	C	0

Site Number: 1

Improvement Number: 4

Structure Code:	Dim 1:	Dim 2	Quantity	Year Built
(LP4) Pavng-asphlt	0	0	1	1950

Condition:	Grade	Sq. Ft.
(3) Normal	D	2100

ABSOLUTELY NO ACCURACY OR COMPLETENESS GUARANTEE IS IMPLIED OR INTENDED. ALL INFORMATION ON THIS MAP IS SUBJECT TO CHANGE BASED ON A COMPLETE TITLE SEARCH OR FIELD SURVEY.

This report was produced with ParcelAccess Internet on 9/11/2017. Developed and maintained by OCIS - Dutchess County, NY.





## ParcelAccess

2

### Final Roll

#### Parcel Grid Identification #:

130200-5954-27-864924-0000

Municipality: Beacon

#### Parcel Location

N 4 Elm St

#### Owner Name on March 1

Kacherski, Charles (P)

#### Primary (P) Owner Mail Address

N 4 Elm St

Beacon NY 125080000



### Parcel Details

Size (acres): 0.15 Ac Land Use Class: (220) Residential: Two Family Year-Round Residence  
 File Map: Agri. Dist.: (0)  
 File Lot #: School District: (130200) Beacon City School District  
 Split Town

### Assessment Information (Current)

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$39000	\$273300	\$273300	\$273300	\$273300	\$0

Tax Code:	Roll Section:	Uniform %:	Full Market Value:
H: Homestead	1	100	\$ 273300

Tent. Roll:	Final. Roll:	Valuation:
5/1/2017	7/1/2017	7/1/2016

### Last Sale/Transfer

Sales Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$275000	4/6/2017 3:44:46 PM	22017	3504	(J)	1

### Site Information:

Site Number: 1

Water Supply:	Sewer Type:	Desirability:	Zoning Code:	Used As:
(3) Comm/public	(3) Comm/public	(2) Typical	CB	( )

### Residential Building Information:

Site Number: 1

Year Built:	Year Remod.:	Building Style:	No. Stories:	Sfla:	Overall Cond.:
1900	0	(08) Old style	2	1998	(3) Normal
No. Kitchens:	No. Full Baths:	No. Half Baths:	No. Bedrooms:	No. Fire Places:	Basement Type:
2	2	0	4	0	(4) Full
Central Air:	Heat Type:	Fuel Type:	First Story:	Second Story:	Addl. Story:
0	(3) Hot wtr/stm	(4) Oil	(4) 1101	(4) 897	(4) 0

•  
Half Story: 3/4 Story: Fin. Over. Gar.: Fin. Attic: Unfin 1/2 Story: Unfin 3/4 Story:  
0 0 0 0 0 0  
•  
Fin Rec Room: No. Rooms: Grade: Grade Adj. Pct.:  
0 0 (C) Average 95  
•

Improvements:[Site Number: 1](#)[Improvement Number: 1](#)

Structure Code: Dim 1: Dim 2 Quantity Year Built  
(RP2) Porch-coverd 0 0 1 1900

•  
Condition: Grade Sq. Ft.  
(3) Normal C 132  
•

[Site Number: 1](#)[Improvement Number: 2](#)

Structure Code: Dim 1: Dim 2 Quantity Year Built  
(RG4) Gar-1.0 det 0 0 1 1900

•  
Condition: Grade Sq. Ft.  
(3) Normal C 200  
•

[Site Number: 1](#)[Improvement Number: 3](#)

Structure Code: Dim 1: Dim 2 Quantity Year Built  
(LS5) Pool-abv grn 0 0 1 1900

•  
Condition: Grade Sq. Ft.  
(3) Normal C 314  
•

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## Parcel Access

3

## Final Roll

Parcel Grid Identification #:  
130200-5954-27-867918-0000  
Municipality: Beacon

### Parcel Location

232 Main St

## Owner Name on March 1

Bock , Stephen Trustee (P)  
Bock , Ricann Trustee (A)

Primary (P) Owner Mail Address

NE 11540 Wing Point Way  
Bainbridge Island WA 98110



### Parcel Details

Size (acres): 23.4 x 146.2 Land Use Class: (482) Commercial: Multiple Use or Multipurpose: Downtown Row Type (detached)  
File Map: Agri. Dist.: (0)  
File Lot #: School District: (130200) Beacon City School District  
Split Town

### Assessment Information (Current)

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$75000	\$395000	\$395000	\$395000	\$395000	\$0

Tax Code:	Roll Section:	Uniform %:	Full Market Value:
N: Non-Homestead	1	100	\$ 395000

Tent. Roll:	Final. Roll:	Valuation:
5/1/2017	7/1/2017	7/1/2016

Last Sale/Transfer

Sales Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$0	5/23/2007 2:26:30 PM	22007	5617	(l)	1

### Site Information:

Site Number: 1

Water Supply:	Sewer Type:	Desirability:	Zoning Code:	Used As:
(3) Comm/public	(3) Comm/public	( )	CB	(D08) Small retail

### Commercial/Industrial/Utility Building Information:

Site Number: 1

Bldg Sec.: 1 Bldg. Number: 1

Year Built:	No. Stories:	Gross Floor Area:	Boeck Model	Const. Qual.:
1965	3	4140	(0320) 3 sty Str/off/apt load sup	(2) Average

Air Cond. %:	Sprinkler %:	Alarm %:	No. Elevator:	Basement sf.:
0	0	0	0	0

Number Identical: 1 Condition Code: 3



Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (D08) Small retail

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	1380	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

Site Number: 1

Use Number: 2

Used As: (A01) Walk-up apt

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	2760	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
4	0	0	0

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# ParcelAccess

4

## Final Roll

### Parcel Grid Identification #:

130200-5954-27-869916-0000

Municipality: Beacon

### Parcel Location

234 Main St

### Owner Name on March 1

Norman, Harry P (P)

### Primary (P) Owner Mail Address

N 165 Elm St

Beacon NY 125080000



## Parcel Details

Size (acres): .09 Ac (C)

File Map:

File Lot #:

Split Town

Land Use Class: (450) Commercial: Retail Services

Agri. Dist.: (0)

School District: (130200) Beacon City School District

## Assessment Information (Current)

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$110000	\$436500	\$436500	\$436500	\$436500	\$0

Tax Code:	Roll Section:	Uniform %:	Full Market Value:
N: Non-Homestead	1	100	\$ 436500

Tent. Roll:	Final. Roll:	Valuation:
5/1/2017	7/1/2017	7/1/2016

## Last Sale/Transfer

Sales Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$0	0	1508	0504	( )	0

## Site Information:

Site Number: 1

Water Supply:  
(3) Comm/publicSewer Type:  
(3) Comm/publicDesirability:  
(3) NormalZoning Code:  
CBUsed As:  
(D08) Small retail

## Commercial/Industrial/Utility Building Information:

Site Number: 1

Bldg Sec.: 1 Bldg. Number: 1

Year Built:	No. Stories:	Gross Floor Area:	Boeck Model	Const. Qual.:
1930	1	2980	(0109) 1 sty apt load sup	(2) Average

Air Cond. %:	Sprinkler %:	Alarm %:	No. Elevator:	Basement sf.:
0	0	0	0	0

Number Identical:	Condition Code:
0	3

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (D08) Small retail

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	2860	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

Site Number: 1

Use Number: 2

Used As: (F05) Row storage

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	120	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

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# ParcelAccess

5

Final Roll

Parcel Grid Identification #:

130200-5954-27-872913-0000

Municipality: Beacon

Parcel Location

236-240 Main St

Owner Name on March 1

240 Main St Beacon LLC , (P)

Primary (P) Owner Mail Address

E 18 22nd St

New York NY 125080000



Parcel Details

Size (acres): .15 ac (s) Land Use Class: (484) Commercial: Multiple Use or Multipurpose: One Story Small Structure  
 File Map: 11699 Agri. Dist.: (0)  
 File Lot #: 1 School District: (130200) Beacon City School District  
 Split Town

Assessment Information (Current)

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$95000	\$315300	\$315300	\$315300	\$315300	\$0

Tax Code:	Roll Section:	Uniform %:	Full Market Value:
N: Non-Homestead	1	100	\$ 315300

Tent. Roll:	Final. Roll:	Valuation:
5/1/2017	7/1/2017	7/1/2016

Last Sale/Transfer

Sales Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$1	11/3/2008 3:03:02 PM	22008	6863	(B)	1

Site Information:

Site Number: 1

Water Supply:	Sewer Type:	Desirability:	Zoning Code:	Used As:
(3) Comm/public	(3) Comm/public	( )	CB	(D08) Small retail

Commercial/Industrial/Utility Building Information:

Site Number: 1

Bldg Sec.: 1 Bldg. Number: 1

Year Built:	No. Stories:	Gross Floor Area:	Boeck Model	Const. Qual.:
1970	1	2100	(0312) 1 sty store load sup	(2) Average

Air Cond. %:	Sprinkler %:	Alarm %:	No. Elevator:	Basement sf.:
0	0	0	0	0

Number Identical:	Condition Code:
1	3

•  
Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (D08) Small retail

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	2100	0	0	0

•  
Total Units:            No. 1 Bdrms Apts            No. 2 Bdrms Apts            No. 3 Bdrms Apts  
1                            0                            0                            0

•

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## ParcelAccess

6

Final Roll

Parcel Grid Identification #:  
130200-5954-27-874910-0000  
Municipality: Beacon

Parcel Location  
242 Main St

Owner Name on March 1  
Gaither, Denise (P)  
Gaither, Elbert Jr (A)

Primary (P) Owner Mail Address  
242 Main St  
Beacon NY 125080000



### Parcel Details

Size (acres): 0.08 Ac Land Use Class: (482) Commercial: Multiple Use or Multipurpose: Downtown Row Type (detached)  
File Map: Agri. Dist.: (0)  
File Lot #: School District: (130200) Beacon City School District  
Split Town

### Assessment Information (Current)

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$87500	\$271600	\$271600	\$271600	\$271600	\$0

Tax Code:	Roll Section:	Uniform %:	Full Market Value:
N: Non-Homestead	1	100	\$ 271600

Tent. Roll:	Final. Roll:	Valuation:
5/1/2017	7/1/2017	7/1/2016

### Last Sale/Transfer

Sales Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$250000	1/8/2010 3:30:54 PM	22010	276	(J)	1

### Site Information:

Site Number: 1

Water Supply:	Sewer Type:	Desirability:	Zoning Code:	Used As:
(3) Comm/public	(3) Comm/public	( )	CB	(E03) Profssnl off

### Commercial/Industrial/Utility Building Information:

Site Number: 1

Bldg Sec.: 1 Bldg. Number: 1

Year Built:	No. Stories:	Gross Floor Area:	Boeck Model	Const. Qual.:
1968	2	2228	(0319) 2 sty Str/off/apt load sup	(2) Average

Air Cond. %:	Sprinkler %:	Alarm %:	No. Elevator:	Basement sf.:
0	0	0	0	0

Number Identical:	Condition Code:
1	3

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (C01) Restaurant

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	1538	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

Site Number: 1

Use Number: 2

Used As: (A01) Walk-up apt

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(02) Apartments	690	690	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	1	0	0

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## ParcelAccess

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### Final Roll

#### Parcel Grid Identification #:

130200-5954-28-877907-0000

Municipality: Beacon

#### Parcel Location

246 Main St

#### Owner Name on March 1

246 Main Street LLC , (P)

#### Primary (P) Owner Mail Address

1166 North Ave

Beacon NY 125080000



#### Parcel Details

Size (acres): 0.08 Ac (D) Land Use Class: (421) Commercial: Dining Establishments: Restaurants  
 File Map: Agri. Dist.: (0)  
 File Lot #: School District: (130200) Beacon City School District  
 Split Town

#### Assessment Information (Current)

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$160000	\$620800	\$620800	\$620800	\$620800	\$0

Tax Code:	Roll Section:	Uniform %:	Full Market Value:
N: Non-Homestead	1	100	\$ 620800

Tent. Roll:	Final. Roll:	Valuation:
5/1/2017	7/1/2017	7/1/2016

#### Last Sale/Transfer

Sales Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$1400000	4/26/2017 3:09:13 PM	22017	3494	(J)	1

#### Site Information:

##### Site Number: 1

Water Supply:	Sewer Type:	Desirability:	Zoning Code:	Used As:
(3) Comm/public	(3) Comm/public	( )	CB	(F05) Row storage

#### Commercial/Industrial/Utility Building Information:

##### Site Number: 1

##### Bldg Sec.: 1 Bldg. Number: 1

Year Built:	No. Stories:	Gross Floor Area:	Boeck Model	Const. Qual.:
1960	3	5845	(0320) 3 sty Str/off/apt load sup	(2) Average

Air Cond. %:	Sprinkler %:	Alarm %:	No. Elevator:	Basement sf.:
100	0	0	0	0

Number Identical:	Condition Code:
1	3

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (C06) Nbhd tavern

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	1800	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

Site Number: 1

Use Number: 2

Used As: (B06) Room/dorm

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(03) Rooms	4045	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
20	0	0	0

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cuddyfeder.com

Jennifer L. Van Tuyl  
jvantuyl@cuddyfeder.com

September 15, 2017

**By e-mail and by hand**

Chairman John Dunne  
and Members of the Zoning Board of Appeals  
City of Beacon  
1 Municipal Plaza  
Beacon, New York 12508

Re: Second Supplemental Submission for 226 Main Street  
226 Main Street, Beacon, New York 12508 (SBL: 5954-27-860918)

Dear Chairman Dunne and Members of the Zoning Board of Appeals:

We respectfully submit this letter to provide the Board with supplemental information to aid in its consideration of the requested variances, and to respond to the concerns raised by the public at the July 18, 2017 public hearing.

The project seeks to improve an underutilized corner property located on Central Main Street, presently occupied by an automotive repair facility, by constructing a 4-story mixed-use retail and multifamily residential building containing ground-floor retail space and 8 apartment units on the second through fourth floors (the "Project").

The two requested area variances are summarized as follows:

A. Rear Yard Setback:

The Applicant requests relief from Zoning Code Section 223-41.18(D)(5), which requires a rear yard setback of 25 ft. The Applicant requests a variance of 15 ft., to permit a rear yard setback of 10 ft. (The existing building on the site, which would be replaced by the proposed new building, has a rear yard setback of less than one foot.)

B. Residential Parking Spaces:

The Applicant requests relief from Zoning Code Section 223-41.18(F)(2)(a), which requires 1 parking space per 1 residential unit, and thus 8 residential parking spaces, to allow zero spaces on the Premises.

C&F: 3530488.4



September 15, 2017

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### **GENERAL COMMENTS BY THE PUBLIC:**

The Zoning Board is obligated to consider each variance separately. However, there were certain comments made by the public which were intended to apply to both variances, and those comments are addressed first.

#### ***The Right of an Applicant to Seek Variance Relief:***

There were numerous comments from the public that the ZBA should never grant a variance for any application. This clearly reflects a misunderstanding of the law.

Landowners have a constitutional due process right to request variance relief. Granting the ability to apply for variances is an essential element in preserving the constitutionality of zoning laws. Thus, the right to apply for variances is codified in New York State statutes, General City Law 81-b, and in the Beacon City Code, section 223-55 (C) (2).

#### ***General opposition to the project, or to development in general:***

Many of the comments at the public hearing were general statements of opposition to the project, or to development in general, unsubstantiated by any data or objective facts. Many commenters expressed clear animus for all new development and growth in the City, even projects such as this one, which substantially complies with the requirements and intent of the recently updated City Code and Comp Plan. Multiple commenters requested that the City oppose all development and push back on developers who do not reside in Beacon – by enacting a moratorium on all new applications.

It is well settled law that such general opposition does not provide a valid ground to deny a variance.

### **THE LEGAL TEST FOR AREA VARIANCES:**

New York law clearly states the applicable test for an area variance: weighing the *benefit* of the variance to the applicant, as against the actual *detriment*, if any, to the neighborhood from the granting of the variance.<sup>1</sup> If the benefit to the applicant outweighs the actual harm to the community, the applicant is entitled to receive the area variance.

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<sup>1</sup> See GEN. CITY LAW § 81-b; CITY OF BEACON ZONING CODE § 223-55(C)(2).



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The law does not require an applicant for an area variance to establish any “hardship.” The hardship standard applies only to use variances.

The Zoning Board is obligated to consider each variance separately. Accordingly, this submission addresses the two separate variance requests in turn.

### **EASEMENT 1 - REAR SETBACK VARIANCE:**

#### **Precedent:**

Zoning Boards are obligated to treat similar cases in a similar way. They cannot grant variances to some applicants, but not to other applicants in similar circumstances. A critical factor with respect to the rear setback variance is the precedent of this Board’s having granted similar, and even greater, rear setback variances to other properties in similar circumstances.

Specifically, the Board granted variances to:

- **344 Main Street** (SBL: 5954-36-987833), CMS District – O’Donnell Construction Corp.: The Zoning Board of Appeals approved a 0 ft. rear yard setback where 25 ft. was required. The long, narrow site did not allow the applicant to optimize the setup of interior units in the building. The granting of this variance allowed the applicant to build a 4-story mixed use building and lay out 18 apartments and 6 retail units. Further, as a corner lot, the applicant did not want to create the appearance of a “gaping hole” at the rear of the property. The Zero rear setback variance was approved on September 15, 2015. The variance requested by 226 Main Street is less extensive than this variance. The factual circumstances are very similar, since this is also a corner lot with a unique configuration.
- **249 Main Street** (SBL: 5954-27-852906), CMS District – 249 Main Street, LLC: The Zoning Board of Appeals on the same date (September 15, 2015) approved a 10 ft. rear yard setback where 25 ft. was required, to construct a new 4-story residential/retail building.

In light of this precedent, and the similarity of the circumstances, the Board is bound by its prior precedent to make a similar determination.<sup>2</sup> The circumstances are similar, and there is no justification for a different treatment for this project.<sup>3</sup>

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<sup>2</sup> See Knight v. Amelkin, 68 N.Y.2d 975 (1986); Dil-Hill Realty Co. v. Schultz, 53 A.D.2d 263 (2d Dept. 1976).

<sup>3</sup> See Frisenda v. ZBA of Town of Islip, 215 A.D.2d 479 (2d Dept. 1995); Callahan Indus. Inc. v. Rourke, 187 A.D.2d 781 (3d Dept. 1992).



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**5 Factor Analysis of the Rear Yard Setback Variance:**

The grant of the variance is also supported by a consideration of the 5 area variance factors, even independent of the precedent of prior decisions.

**1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance.**

The existing building on the subject property sits less than 1 foot from the rear property line. The proposed variance will actually increase this significantly, reducing the nonconformity. The proposed project, including the requested setback variance will also have a positive effect on the character of the neighborhood, as documented by the Dutchess County Planning Department comments on the proposal:

The proposed redevelopment of this prominent corner on Main Street to a 4-story mixed use building with retail on the ground floor will result in a vast improvement in the appearance of this site and will add value to the parcel, and the City as a whole. The proposed site plan is in keeping with the City's regulations for the Central Main Street (CMS) district and we commend the applicant in proposing a building that upholds these standards.<sup>4</sup>

The express purpose of the CMS District is to "increase the vitality, attractiveness, and marketability of Main Street and the Central Business District by providing more flexibility of land use while maintaining and enhancing urban form as recommended by the City's Comprehensive Plan."<sup>5</sup> Furthermore, the CMS District regulations contemplate that the most ideal location to site taller buildings in the district are on corner lots.<sup>6</sup>

The City's 2007 Comprehensive Plan and 2017 Comprehensive Plan Update "encourage housing development at relatively greater densities within and adjacent to the central

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<sup>4</sup> The County's Letter, dated May 31, 2017 to the City of Beacon Planning Board is on file with the Planning Board and is enclosed herein as **Exhibit A** for the ZBA's ease of reference.

<sup>5</sup> CITY OF BEACON ZONING CODE § 223-41.16.

<sup>6</sup> CITY OF BEACON ZONING CODE § 223-41.18(B)(1)(b) (5-story buildings, which are even taller than the 4-story building currently proposed as-of-right, are permissible with special use permit: "Corner locations are deemed most appropriate for such buildings").





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business district.”<sup>7</sup> Referencing the 2007 Comprehensive Plan, the 2017 Comprehensive Plan Update recognized and affirmed that:

While Main Street is viewed as an important asset of the City, many residents expressed the need to improve the ‘transition area’ between Teller and Digger Phelps Street. This area lacks the density and architectural features of the more historic sections of Main Street to the east and west. The 2007 Plan stated that many residents felt the City should encourage the development of more residences on Main Street, particularly in the transition area, which would help provide a larger local market for businesses.

... The Main Street business district needs an increased residential population in the area near Main Street in order to support a larger market necessary for long-term economic viability.<sup>8</sup>

There is no adverse impact on the neighborhood which justifies the denial of the setback variance. The generalized claims of so-called “shadow” impacts have been investigated, and the applicant submits herewith a Shadow Study (Exhibit C) which shows that there is no perceptible difference in the nature of the shadows created by the proposed building under the 10 foot setback as compared to the 25 foot as-of-right setback. These claims are discussed in detail below under factor 4, pages 7-9.

**2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.**

The applicant cannot achieve the benefit he seeks---the construction of a viable building—without a setback variance, because of the shape and shallow nature of the Premises, and its character as a corner lot.

The facts demonstrate that the Premises and proposed development are actually comparable in lot size (in terms of overall acreage/SF) to the other lots on its block, but the Premises is distinguishable from most of the other properties because it is a corner lot. See **Exhibit B**.

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<sup>7</sup> CITY OF BEACON, 2007 COMPREHENSIVE PLAN at 7 (Population and Residential Development), 106 (Land Use, Objective C);

<sup>8</sup> See CITY OF BEACON, 2017 COMPREHENSIVE PLAN UPDATE at 61-62 (Section 4.2, Goals and Recommendations)

C&F: 3530488.4



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Despite its comparable square footage to other lots located on its block within the CMS District, 226 Main Street is quite shallow, being only about 57 ft. deep. The requested 10 ft. setback would allow a building depth of approximately 47 ft., with an interior dimension of about 45 ft. This is the minimum feasible depth to create a layout that permits apartments to be located on either side of a central 5-foot wide corridor, and creates apartments of a viable size, each 20 ft. wide. It is infeasible to lay out an apartment unit that is less than 20 ft. deep, and still maintaining a configuration that features adequate living space and facilities. To meet Building Code requirements for a 3+ story multifamily building, the double-loaded corridor must be at least 5 ft. wide, and there must be two means of ingress/egress access to the building. Applying the 25 ft. setback requirement would make the double-loaded corridor impossible, as there would simply not be enough space within the building footprint to support the amount of square footage required by the corridor and ingress/egress access ways, and maintain reasonably sized apartment units on each floor.

Allowing the Applicant to build on the Premises and receive an economic return from its property is a legitimate “benefit” to be sought by an area variance, and cannot be rejected by a ZBA as an “unworthy” motive. This consideration is particularly applicable to the present case, where the Applicant seeks to develop this corner lot in accordance with the broader objectives of the CMS District regulations and Comprehensive Plan. It is improper for a ZBA to deny a variance and attempt to relegate an applicant to an alternative design that is a “profound departure” from, or at causing a substantial loss compared to what the applicant is seeking through the variance request.<sup>9</sup> Similarly, where an applicant seeks the benefit of a variance a ZBA may not reject a variance on the ground or allegation that the applicant doesn't “need” it.<sup>10</sup>

### **3. Whether the requested area variance is substantial.**

The variance is not substantial in its effect. The substantiality of a variance cannot be judged solely by a comparison of the percentage deviation from the mandated requirements of the Zoning Code. In considering whether a variance is substantial, the ZBA shall examine the totality of the circumstances within an application.<sup>11</sup> Thus, the

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<sup>9</sup> See Corp. of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison, 296 A.D.2d 460, 461-62, 745 N.Y.S.2d 76, 78, 2002 N.Y. Slip Op. 05773 (2d Dept. 2002) (Court reversed ZBA's denial of variance where the ZBA attempted to force the applicant to a profound departure from its own proposal, and would cost applicant an additional \$1 million).

<sup>10</sup> See Baker v. Brownlie, 248 A.D.2d 527 (2 Dept. 1998) (Board may not reject a variance on the ground that the applicant doesn't “need” the variance to have a patio not facing the water).

<sup>11</sup> See Aydelott v. Town of Bedford Zoning Bd. of Appeals, N.Y.L.J. June 25, 2003, p. 21, col. 4 (Sup. Ct. Westchester Co. 2003) (“consideration of the percentage [of lot coverage] alone, taken in a vacuum, is not an adequate indicator of the substantiality....[A] large deviation can have little or no impact depending on the circumstances of the variance application.”); Lodge Hotel, Inc. v. Town of Erwin Zoning Bd. of Appeals, Misc.3d 1120(A), 873 N.Y.S.2d 512 (Table), 2007 WL 56495232007 N.Y. Slip. Op. 52571(U) (“Substantiality cannot be judged in the abstract; rather, the totality of

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overall effect of granting the relief is the appropriate inquiry. The ZBA must consider the surrounding neighborhood and nearby lots when determining whether the application is substantial.<sup>12</sup>

Here, the requested variance is not substantial in its effect, because a 10 ft. rear yard setback is greater than the Premises' existing rear yard setback (less than 1 ft.), and is consistent with other existing properties in the CMS District. The existing building on the property is set back less than one foot from the rear property line, and other properties in the area feature rear yard setbacks of 10 feet or less, including several that were granted variances for reduced rear yard setbacks.

Moreover, even if a variance is deemed "substantial," this factor alone does not preclude the granting of a variance, since the applicant meets the overall balancing test.<sup>13</sup>

**4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

The proposed variance will have no adverse impacts on the physical or environmental conditions in the neighborhood or district. There will be no adverse effects of noise, vibrations, odor, traffic, or impact on public services, caused by a mere 15-foot reduction in rear yard setback. As the County Planning Board establishes in its letter, there will in fact be a positive visual/aesthetic effect on the neighborhood and district - as the proposed Project employs a pleasing architectural design in character with the goals of the CMS District. The increased residential density in the CMS District will revitalize Main Street's economy and contribute to a vibrant and walkable streetscape.

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relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one."); Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner, 56 A.D.3d 883, 886, 867 N.Y.S.2d 238, 241 (3d Dept. 2008)(although variances were substantial the ZBA properly determined area variances will not have a substantial impact on the community); *see also* Schaller v. New Paltz Zoning Bd. of Appeals, 108 A.D.3d 821, 824, 968 N.Y.S.2d 702, 705 (3d Dept. 2013) (upholding ZBA determination that an area variance).

<sup>12</sup> *See* Crystal Pond Homes, Inc. v. Prior, 305 A.D.2d 595 (2d Dept. 2003) (Court overturned lot area application for 12,750 square foot lot where 21,780 was required where there were a substantial amount of substandard lots in area); Gonzalez v. ZBA of Putnam Valley, 3 A.D.3d 496 (2d Dept. 2004) (denial overturned where record showed substandard lots next to subject lot and other nearby nonconforming structures similar to that sought by applicant); Corp. of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison, 296 A.D.2d 460, 461-62, 745 N.Y.S.2d 76, 78, 2002 N.Y. Slip Op. 05773 (2d Dept. 2002) (even though a variance seeking a 77% increase over the permitted height was substantial, this "does not relieve [the ZBA] from engaging in the balancing test" and the application can still be granted.").

<sup>13</sup> *See* Corp. of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison, 296 A.D.2d 460, 461-62, 745 N.Y.S.2d 76, 78, 2002 N.Y. Slip Op. 05773 (2d Dept. 2002) (even though a variance seeking a 77% increase over the permitted height was substantial, this "does not relieve [the ZBA] from engaging in the balancing test" and the application can still be granted.").

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The only public comments that had any specific connection to the proposed project included unsupported claims that a 4-story building in this location is inappropriate because it will create “shadows” on neighboring properties and it block the flow of “light and air” in the neighborhood.

These comments reflect generalized opposition to the project itself and the proposed building height, not the requested setback variance. Height is not an issue before this Board, nor is it an issue for debate, since it is zoning compliant. The Beacon Zoning Code § 223-41.18(D)(7) expressly permits 4-story buildings in the CMS District. The Zoning Code also notes that the most appropriate location for a taller building is on a corner lot.<sup>14</sup>

Moreover, under New York State law, a neighboring property owner has no natural or inherent right to light or air, and may not complain that either has been cut off by the erection of buildings on adjoining land.<sup>15</sup> Nor does such owner possess an implied visual easement over property he does not own.<sup>16</sup> It is well-settled law in New York that no easement for light or air will ever be implied in favor of one city lot over another, and that doctrine of implied easements of that kind does not exist in this state; further, no such rights may be acquired by prescription, even where the existing neighboring parcel has been in place for many decades.<sup>17</sup>

Therefore, arguments by neighbors that the proposed Project will cut off light and air access to existing buildings located on adjacent or nearby properties are without legal merit. The adjacent and neighboring property owners have no inherent right to light or air; these lots, like any other lot in a city, do not enjoy a perpetual right to undeveloped surroundings merely by virtue of having been there first. The only means by which a property owner may acquire a right to light and air is by an express easement. No such easement exists.

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<sup>14</sup> See CITY OF BEACON ZONING CODE § 223-41.18(B)(1)(b) (“Corner locations are deemed most appropriate for such buildings...”).

<sup>15</sup> See Myers v. Gemmel, 10 Barb 537, 542-543 (New York Gen. Term 1851); De Baun v. Moore, 6 N.Y. Ann. Cas. 132, 32 A.D. 397, 52 N.Y.S. 1092 (2d Dept. 1898), *aff'd* 167 N.Y. 598, 60 N.E. 1110; Kingsway Realty & Mortgage Corp. v. Kingsway Repair Corp., 228 N.Y.S. 265, 223 A.D. 281 (2d Dept. 1928); 1 N.Y. Jur.2d Adjoining Landowners § 57; Pica v. Cross County Construction Corp., 259 App.Div. 128, 18 N.Y.S.2d 470 (1st Dept. 1940); Blair v. 305-313 East 4<sup>th</sup> Street Assocs., 123 Misc.2d 612 (New York Co. 1983). The English doctrine of “ancient lights” (providing that a landowner had a legal right to light and air based on an extended period of uninterrupted use and enjoyment) has been rejected in New York State and almost universally in every United States jurisdiction. See Myers v. Gemmel, 10 Barb 537, 542-543 (New York Gen. Term 1851).

<sup>16</sup> Haber v. Paramount Ice Corp., 239 App.Div. 324, 327, 267 N.Y.S. 329, *aff'd*, 264 N.Y. 98, 190 N.E. 163; Salvin v. Northbracepeth Coal Co., 9 Law R., Ch. Appeals, 705, *cited in* Campbell v. Seaman, 63 N.Y. 568, 577; Blair v. 305-313 East 4<sup>th</sup> Street Assocs., 123 Misc.2d 612 (New York Co. 1983).

<sup>17</sup> Cohan v. Fleuroma, Inc., 43 A.D.2d 741, 346 N.Y.S.2d 157 (2d Dept. 1973); Wilmurt v. McGrane, 16 App.Div. 412, 418-19, 45 N.Y.S. 32 (1st Dept. 1897); Cutting v. Cutting, 86 N.Y. 41 Sickels 522 (1881); Edgerton v. Foote, 19 Wend 309 (1838); Merriam v. 352 West 42<sup>nd</sup> Street Corp., 14 A.D.2d 383, 221 N.Y.S.2d 82 (1st Dept. 1961).



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Moreover, to respond to these neighbor comments, the applicant hereby submits a “Shadow Impact Study” which establishes that the requested variance, changing the rear setback from 25 feet to 10 feet does not result in any perceptible change in shadow impacts on neighboring properties. Please refer to **Exhibit C**.

The owner of 4 North Elm Street, to the rear of 226 Main Street, objected at the last meeting that this property would suffer adverse effects if the rear setback variance is granted. The Shadow Study refutes these allegations. It is also worthy of note that the owner of 4 North Elm Street has made several offer to purchase 226 Main Street, and his opposition may be motivated by the desire to own the property himself. Moreover, upon information and belief, the owner of 4 North Elm Street, as a partner in O’Donnell Construction Corporation, is the direct beneficiary of this Board’s grant of a zero feet rear yard setback at 344 Main Street. It seems inappropriate to object to one’s neighbor receiving a variance, after benefitting from the grant of a similar—and even greater—variance oneself.

**5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.**

The difficulty is not self-created, but rather arises because of the shallow configuration of a corner lot, as described above. However, even if the hardship *were* self-created, this does not alone justify denial of an area variance under N.Y. GENERAL CITY LAW § 81-b(4)(b)(v).<sup>18</sup>

**Conclusion as to Easement 1 - rear setback variance**

Based upon a consideration of the 5 factors, the overall balancing test, and the binding nature of the Board’s past decisions in similar cases, the applicant has established its entitlement to this variance.

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<sup>18</sup> See Matter of Daneri v. ZBA Town of Southold, 98 A.D.3d 508 (self-created nature of difficulty is not preclusive of the ability to obtain an area variance).



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### **EASEMENT 2 -THE PARKING VARIANCE:**

The applicant has also requested that the Board grant a variance of the 8 required off-street spaces for the 8 new apartments. The applicant has noted that its plan provides at least 2 and possibly 3 new parking spaces along the new frontage created by the new project, and that there are two public parking lots in close proximity to the site.

#### **Precedent:**

As noted above, Zoning Boards are obligated to treat similar cases in a similar way. They can't grant variances to some applicants, but not to other applicants in similar circumstances. The ZBA has granted parking variances to a number of Main Street projects featuring a residential component, including:

- **232 Main Street (SBL: 5954-27-867918), Preshrock Corp., Central Business ("CB") District:** On September 16, 2003, the ZBA unanimously voted 7-0 to grant a variance of 29 parking spaces, to permit zero parking spaces where 29 were required, and further to waive the fee-in-lieu of parking requirement. The applicant established that there was no space for parking because the building had been converted from original retail use to seasonal restaurant with retail sales, and the back of the property had been converted to an outdoor dining patio to maximize investment. The applicant relied on parking available in a nearby public parking lot.
- **544 Main Street (SBL: 6054-30-129788), 544 Main Street LLC, CB District:** The ZBA voted unanimously 5-0 to grant a parking variance allowing the applicant to provide 14 off-street parking spaces where 18 spaces were required, for a variance of 4 parking spaces. The applicant intended to renovate an existing building to ground floor retail/commercial and apartments above. Due to topographic (steep slope) conditions of the site, the parking area could not be extended to the rear of the parcel. There was an adjacent municipal parking lot, which was at one time a part of the 544 Main Street property. The applicant showed that it would be impossible to provide parking on its property due to topographic conditions.
- **536 Main Street (SBL: 6054-30-132779), Grzegorz Stachnik, CB District:** The ZBA unanimously voted 5-0 on February 21, 2006 to grant a variance of 3 parking spaces, to provide 5 off-street parking spaces where 8 were required. The applicant proposed to construct a new three-story building with artist live/work space on the ground floor and apartment units on the upper floors on a vacant parcel of land.

Naturally, the consideration of a parking variance is dependent on the relevant facts. The key relevant facts in this situation are that: (1) the applicant is creating 2-3 additional parking spaces by closing in open curbs on its property; (2) the proposed property is located within 800 feet of

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two public parking lots, and (3) that studies have established available on-street parking in the neighborhood.

### **5 Factor Analysis of Requested Parking Variance:**

**1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance.**

No undesirable change will be produced in the character of the neighborhood and no detriment to nearby properties will be created by granting the area variance, for three separate reasons. First, there is adequate street parking surrounding the Premises; the City's 2017 Comprehensive Plan Update noted that "The City of Beacon is well-served by current public and private parking facilities."<sup>19</sup> A 2014 parking analysis of Center City parking availability by the Dutchess County Planning Department also "suggests there is still ample parking capacity in the downtown area for future growth."<sup>20</sup>

Second, the existing street parking will be supplemented by the closing of multiple curb cuts on the Premises' frontage, thereby allowing for the addition of 2 to 3 new on-street parking spaces.

Third, there are also 2 public parking lots located within 800 feet of the property: the Pleasant Ridge Pizza lot (parking for 13 cars) and the Dutchess County Motor Vehicles lot (parking for 92 cars).<sup>21</sup> The existing and new street parking, coupled with the nearby public parking lots, are sufficient to meet the residential parking needs for the proposed use, and therefore no change in character to the neighborhood or detriment to nearby properties will be caused by the parking needs of the proposed Project. Moreover, the complaints by neighbors of crowded parking by tourists and shopper, as well as church attendees, are inapplicable to the proposed request, since demand for residential parking generally occurs at different hours than the commercial parking.<sup>22</sup>

**2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.**

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<sup>19</sup> CITY OF BEACON, 2017 COMPREHENSIVE PLAN UPDATE at 84 (Section 6: Transportation, Parking).

<sup>20</sup> *Id.*; see also Dutchess County Department of Planning and Development, *Beacon Center City Parking Analysis* at 6 (2014).

<sup>21</sup> See CITY OF BEACON ZONING CODE § 223-41.18(F)(3), which lists criteria that the Planning Board may consider in choosing to modify the residential parking requirement of ZONING CODE § 223-41.18(F)(2). "That there is sufficient public parking available within 800 feet of the site and within the CMS or PB Districts to meet foreseeable parking needs of the proposed use and surrounding uses for the duration of the proposed use." *Id.* at § 223-41.18 (F)(3)(d).

<sup>22</sup> See Dutchess County Department of Planning and Development, *Beacon Center City Parking Analysis* at 7, 15 (2014).  
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There are no other viable means for the Applicant to achieve the benefit sought by the area variance. There is insufficient space on the site to construct off-street parking, while still maintaining the minimum feasible depth of the building to support a multifamily residential layout. The difficulty in providing off-street parking on this corner lot is exacerbated by the City's Zoning Code prohibition on parking within a front yard.<sup>23</sup> Because the Premises is a corner lot, it is treated as having two front yards.<sup>24</sup> Further, the CMS Zoning District regulations require that buildings within the CMS District be sited right at the streetscape, to improve the pedestrian experience.<sup>25</sup> Therefore, the only permitted location for off-street parking on this lot would be at the rear of the lot.<sup>26</sup>

But the shallow nature of the lot does not create the possibility to provide such parking. A minimum 42 ft. setback from the rear property line would be required to provide any parking at the rear of the Premises, considering that the required width/length of a parking space is 9 ft./18 ft.<sup>27</sup>, and the required width of a drive aisle is 24 ft.<sup>28</sup> This would leave only approximately 23 ft. in depth for a building sited on the lot. As detailed in the analysis for the rear setback variance, the Premises is only about 57 ft. in depth. Requiring off-street parking to be sited on the lot, leaving only 23 ft. in which to construct a building, would make not only a double-loaded corridor setup impossible, [see discussion of building requirements in analysis of setback variance above, pages 5-6] but would render *any* possible building configuration unworkable and the lot effectively undevelopable.

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<sup>23</sup> CITY OF BEACON ZONING CODE § 223-41.18(D)(1) ("Front setback on Main Street: minimum zero, maximum 10 feet, except that a larger maximum may be allowed if the **area in front of a building has no parking spaces** and is landscaped and used in a manner that enhances the street life on Main Street by such means as pocket parks or plazas, fountains, outdoor dining areas, public art and outdoor display of items for sale on the premises. Such outdoor space shall be landscaped with plant materials as appropriate to the use, in a configuration approved by the Planning Board." [bold emphasis added]); CITY OF BEACON ZONING CODE § 223-41.18(D)(2) ("Front setback on other streets: minimum zero, maximum 25 feet. If surrounding buildings have a larger setback, the setback line may be placed in a location that harmonizes with the prevailing setbacks, **provided that there is no parking in the front yard** other than on a driveway accessing a rear garage." [bold emphasis added]); CITY OF BEACON ZONING CODE § 223-41.18(F)(1) ("All off-street parking for buildings that have Main Street frontage **shall be located behind, underneath, or to the side** of a building. If on the side, the parking area shall be located at least 40 feet from the Main Street property line..." [bold emphasis added]); see also CITY OF BEACON ZONING CODE § 223-41.18(D)(13).

<sup>24</sup> CITY OF BEACON ZONING CODE § 223-41.18(D)(3) ("Corner buildings: Corner buildings **shall be treated as having frontage on both streets and front setbacks shall apply to both**, as appropriate to the street. Corner buildings with **frontage on Main Street** shall **wrap around corners** and **maintain a consistent setback line** along the side." [bold emphasis added]).

<sup>25</sup> CITY OF BEACON ZONING CODE § 223-41.18(D)(1), (2); see also CITY OF BEACON ZONING CODE § 223-41.18(D)(13).

<sup>26</sup> Indeed, this is the parking scheme envisioned by the Comprehensive Plan for the CMS District. See City of Beacon Comprehensive Plan at 106 (2007) ("The properties between Digger Phelps Street and Teller Avenue should be encouraged to be redeveloped at greater density, with incentives (such as increased floor area ratio) for new housing construction above the first floor and **parking included behind the building.**" [bold emphasis added]).

<sup>27</sup> CITY OF BEACON ZONING CODE § 223-26(C)(2)(a).

<sup>28</sup> CITY OF BEACON ZONING CODE § 223-26(C)(2)(c).





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Because a building that shallow in depth is completely unworkable, parking cannot be provided on the site.

As noted in the earlier portion of this letter (see page 6), allowing the Applicant to build on the Premises and receive an economic return from its property is a legitimate “benefit” to be sought by an area variance. It is impossible to provide the required number of off-street parking spaces and still preserve the benefit sought by the Applicant; therefore, a variance from the required number of off-street parking spaces is the only means by which the Applicant can achieve the benefit sought.

### **3. Whether the requested area variance is substantial.**

The requested variance to permit zero parking spaces where 8 spaces are required is not substantial in its effect. The substantiality of a variance cannot be judged solely by a comparison of the percentage deviation from the mandated requirements of the Zoning Code. In considering whether a variance is substantial, the ZBA shall examine the totality of the circumstances within an application.<sup>29</sup> Thus, the overall effect of granting the relief is the appropriate inquiry. The ZBA must consider the surrounding neighborhood and nearby lots, including the availability of on-street and off-street parking, when determining whether the application is substantial.<sup>30</sup>

Here, the proposed Project is not substantial in its effect. The Board must consider the Applicant’s parking variance request individually on its own merits, and should not be distracted by discussions of other sections of Main Street which don’t have nearby public parking lots for residential parking, by complaints about tourist parking or Sunday church parking which are irrelevant to the demand for residential parking since the demands

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<sup>29</sup> See Aydelott v. Town of Bedford Zoning Bd. of Appeals, N.Y.L.J. June 25, 2003, p. 21, col. 4 (Sup. Ct. Westchester Co. 2003) (“consideration of the percentage [of lot coverage] alone, taken in a vacuum, is not an adequate indicator of the substantiality....[A] large deviation can have little or no impact depending on the circumstances of the variance application.”); Lodge Hotel, Inc. v. Town of Erwin Zoning Bd. of Appeals, Misc.3d 1120(A), 873 N.Y.S.2d 512 (Table), 2007 WL 56495232007 N.Y. Slip. Op. 52571(U) (“Substantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one.”); Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner, 56 A.D.3d 883, 886, 867 N.Y.S.2d 238, 241 (3d Dept. 2008)(although variances were substantial the ZBA properly determined area variances will not have a substantial impact on the community); see also Schaller v. New Paltz Zoning Bd. of Appeals, 108 A.D.3d 821, 824, 968 N.Y.S.2d 702, 705 (3d Dept. 2013) (upholding ZBA determination that an area variance).

<sup>30</sup> See Crystal Pond Homes, Inc. v. Prior, 305 A.D.2d 595 (2d Dept. 2003) (Court overturned lot area application for 12,750 square foot lot where 21,780 was required where there were a substantial amount of substandard lots in area); Gonzalez v. ZBA of Putnam Valley, 3 A.D.3d 496 (2d Dept. 2004) (denial overturned where record showed substandard lots next to subject lot and other nearby nonconforming structures similar to that sought by applicant); See Corp. of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison, 296 A.D.2d 460, 461-62, 745 N.Y.S.2d 76, 78, 2002 N.Y. Slip Op. 05773 (2d Dept. 2002) (even though a variance seeking a 77% increase over the permitted height was substantial, this “does not relieve [the ZBA] from engaging in the balancing test” and the application can still be granted.”).



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occur at different hours, or speculation about future development and future circumstances. The comments at the public hearing conflate this specific parking variance request with other issues, and other speculative future developments on Main Street. Whether future projects, on other properties, may have a substantial effect on existing parking is not an issue now before this Board. Likewise, this Board is not the forum in which to debate legislative issues concerning the CMS District's preference for increased residential density.

An essential part of the context of this application is the availability of two nearby municipal parking lots (with space for 13 cars and 92 cars, respectively) in the immediate vicinity. These lots supplement the available on-street parking. Additionally, the applicant will be creating 2-3 additional parking spaces immediately adjacent to this building. These existing parking resources are more than sufficient to serve central Main Street's parking needs.

**4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

The proposed variance will have no adverse impacts on the physical or environmental conditions in the neighborhood or district.

The data discussed in the previous sections establishes that the proposed Project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood or district. The proposed Project encourages walkability and access to public transportation, and will have a beneficial impact on the aesthetics, walkability, and economy of the neighborhood and district. It will also result in closing multiple curb cuts, allowing for the addition of 2 to 3 on-street parking spaces and thereby only truly generating a need for 5-6 off-site parking spaces.

**5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.**

The difficulty is not self-created, but results from the lot's shape and character as a corner lot. As discussed above, placement of the 8 required off-street parking spaces on the Premises would result in an unworkably narrow 23 ft. building envelope, rendering *any* development of the Premises infeasible. The proposed Project is in conformance with the other aspects and intent of the CMS Zoning District, and with the goals of the Comprehensive Plan, but will be impossible to achieve without obtaining the requested

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parking variance. Finally, even if the hardship *were* self-created, this does not alone justify denial of an area variance under N.Y. GENERAL CITY LAW § 81-b(4)(b)(v).<sup>31</sup>

**Conclusion with respect to Easement 2 - parking variance:**

The facts clearly show that there is ample available public parking in the neighborhood of the proposed building to provide 8 residential spaces. The proposed project itself will provide 2 or 3 new spaces immediately in front of the building. Considering the overall balancing test, the 5 factors, and the precedent of past parking variances, there is no harm to the community sufficient to outweigh the benefit to the applicant from the grant of the parking variance.

**Summary:**

The Applicant looks forward to appearing at the Zoning Board of Appeals meeting on September 19, 2017. Should you have any questions, please call me at the office. My direct line is 914-872-1941.

The following exhibits are attached to this letter:

- Exhibit A: 293-m Referral Response Letter from Dutchess County Department of Planning & Development to City of Beacon Planning Board, dated May 31, 2017;
- Exhibit B: Chart, Map, and Property Cards Illustrating Comparable Lot Sizes to the Premises located within the same Block in the CMS District; and
- Exhibit C: “226 Main Street Shadow Impact Study,” prepared by Patrick Cleary, AICP, dated September 15, 2017.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'JL Van Tuyl', is written over a light blue circular stamp.

Jennifer L. Van Tuyl

cc: Edward J. Phillips, Esq.  
Eric L. Gordon, Esq.

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<sup>31</sup> See Matter of Daneri v. ZBA Town of Southold, 98 A.D.3d 508 (self-created nature of difficulty is not preclusive of the ability to obtain an area variance).



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Jennifer L. Gray, Esq.  
Aryeh J. Siegel, AIA  
Brendan McAlpine

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October 13, 2017

**By Hand and E-mail**

Chairman John Dunne  
and Members of the Zoning Board of Appeals  
City of Beacon  
1 Municipal Plaza  
Beacon, New York 12508

Re: Third Supplemental Submission for 226 Main Street  
Premises: 226 Main Street, Beacon, New York 12508 (SBL: 5954-27-860918)

Dear Chairman Dunne and Members of the Zoning Board of Appeals:

We respectfully submit this letter and the attached exhibits to aid the Board in its consideration of the requested variances, and to support a finding by the Board that the legal balancing test for each separate area variance weighs in favor of granting the relief requested by the applicant.

Copies of the following exhibits are attached:

Exhibit A: Visual Packet, prepared by Aryeh Siegel, Architect, containing photos and renderings of existing conditions and the proposed improvements to the Premises; and

Exhibit B: Alternate Site Plan, prepared by Aryeh Siegel, Architect, with a modified layout, assessing the feasibility of providing off-street parking on the Premises.

We are also enclosing 5 additional copies of our September 15, 2017 supplemental submission package for the Board's ease of reference. Copies of our September package were previously submitted to the City on September 15 in advance of the September 19 public hearing. The September 15 letter summarizes the requested relief, explains the applicable law, facts and precedent, and provides a detailed analysis of the 5-factor balancing test for *each* of the 2 requested variances (i.e., a rear yard setback variance, and a residential parking space variance). Separate analyses for the setback and parking variances are on pages 3-9 and 10-15, respectively.

We respectfully submit that the attached Exhibits A and B further illustrate the facts and analysis provided in the September 15 letter and demonstrate that the applicant is entitled to the variances.





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**THE VISUAL PACKET SUPPORTS A FINDING THAT  
THE APPLICANT IS ENTITLED TO THE SETBACK AND PARKING VARIANCES**

The applicant is proposing to construct a mixed-use retail and multifamily residential building containing ground-floor retail space and apartment units on the second through fourth floors (the "Project"). The Visual Packet contains 4 photos of the existing conditions of the Premises, and 4 corresponding renderings depicting the proposed Project improvements.

The images in Exhibit A illustrate that the setback and parking variances will not have an adverse impact on the character or physical conditions of the neighborhood, and that such variances are not substantial in their effect. The images show that the Project will improve an underutilized corner property located on Central Main Street, presently occupied by an outdated automotive repair facility, and will encourage walkability and access in the neighborhood and district. Indeed, the Dutchess County Planning Department echoed these sentiments in its Project comments:

The proposed redevelopment of this prominent corner on Main Street to a 4-story mixed use building with retail on the ground floor will result in a vast improvement in the appearance of this site and will add value to the parcel, and the City as a whole. The proposed site plan is in keeping with the City's regulations for the Central Main Street (CMS) district and we commend the applicant in proposing a building that upholds these standards.<sup>1</sup>

In other words, the Project will "increase the vitality, attractiveness, and marketability of Main Street and the Central Business District by providing more flexibility of land use while maintaining and enhancing urban form as recommended by the City's Comprehensive Plan".<sup>2</sup> We submit that the Visual Packet, together with the applicant's prior submissions and comments in the record make clear that granting the requested variances will benefit the community, without any demonstrable detriment. For these reasons, and the reasons set forth in our September 15 submission (enclosed) supporting each variance, the applicant is entitled to the requested relief.

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<sup>1</sup> The County's Letter, dated May 31, 2017 to the City of Beacon Planning Board is on file with the Planning Board and is enclosed as Exhibit A with the September 15 supplemental submission package.

<sup>2</sup> CITY OF BEACON ZONING CODE § 223-41.16.



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**THE ALTERNATE SITE PLAN DEMONSTRATES THAT  
THE BENEFIT SOUGHT CANNOT BE ACHIEVED WITHOUT THE PARKING VARIANCE**

The Project Architect prepared the attached Alternate Plan to assess the feasibility of locating parking spaces on the Premises. The Plan's design reflects the limits and standards of the City Zoning Code and illustrates the difficulty in providing off-street parking on this corner lot.

As other applicants in similar circumstances have found for their projects, there is insufficient space on this Premises to construct off-street parking, while still maintaining the minimum feasible depth of the building. In this instance, complying with the Code and providing off-street parking leaves a building width of about 10 feet. (The details of the Alternate Plan are summarized in the September 15 letter, p. 11-13.) This limitation is the result of the shallow nature of the Premises, not its size, which is actually similar to or greater than many other lots on its block. (See September 15 letter, Exhibit B).

The Alternate Plan demonstrates quite clearly that there are no other viable means for the applicant to achieve the benefit sought by the area variance. It also confirms that the difficulty confronting the applicant is not self-created, but rather it is the result of the existing lot's shape and character as a corner lot. Placement of off-street parking spaces on the Premises would result in an unworkable building envelope, rendering any development infeasible.

The Alternate Plan and its demonstration of the infeasibility of locating off-street parking spaces on the Premises, together with other relevant facts in the record, support the Board granting the requested parking variance. The applicant is creating 2-3 additional parking spaces by closing open curbs. The Premises is located within 800 feet of two public parking lots, and there are studies that have established available on-street parking in the neighborhood. Considering the overall balancing test, the 5 factors, and precedent of past parking variances, there is no harm to the community sufficient to outweigh the benefit to the applicant from granting the variance.





October 13, 2017

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We look forward to appearing at the Zoning Board of Appeals meeting on October 17, 2017. Should you have any questions, please do not hesitate to call me or Jennifer Van Tuyl at our office.

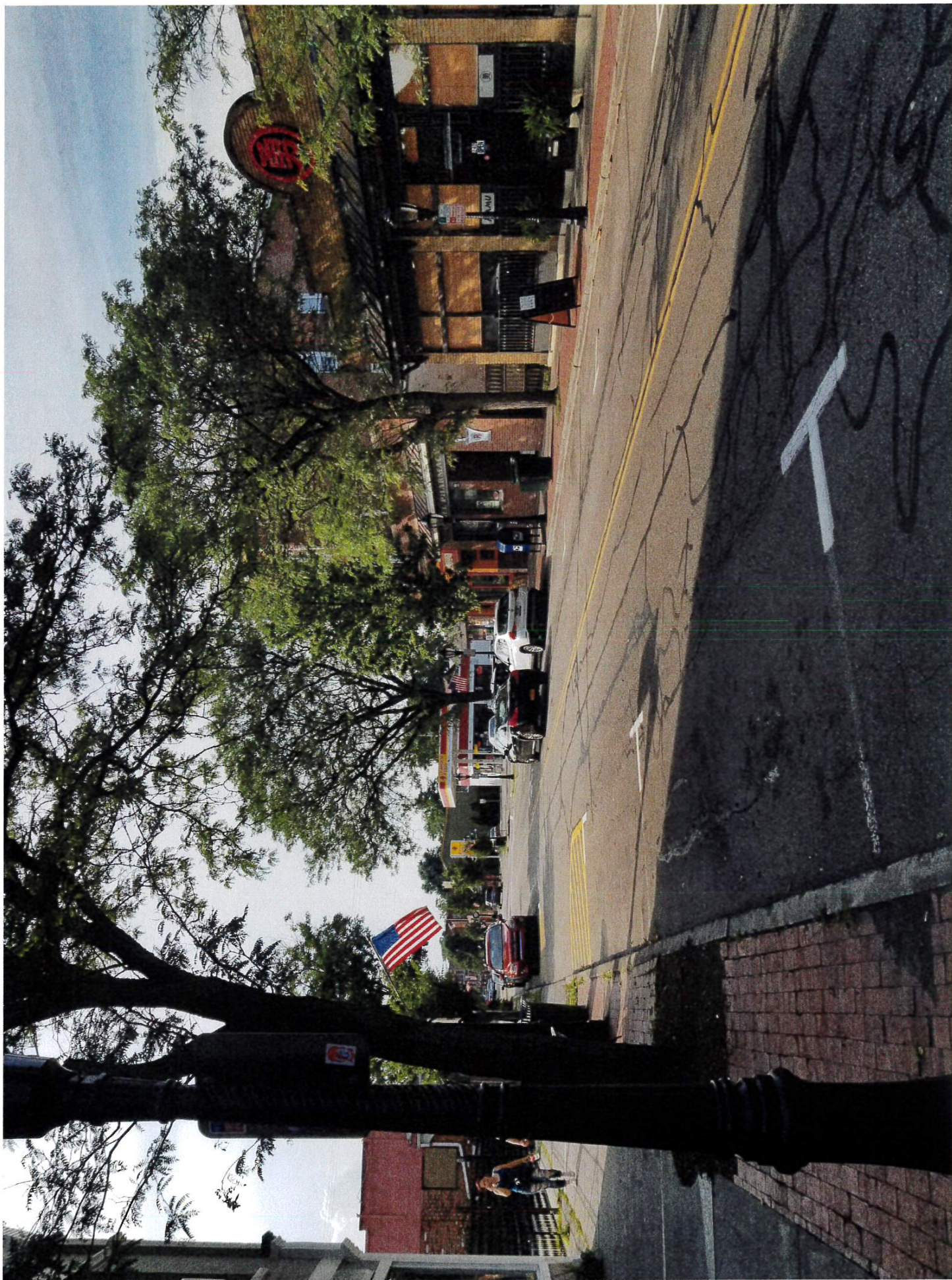
Very truly yours,

A handwritten signature in blue ink, appearing to read "A. Morando".

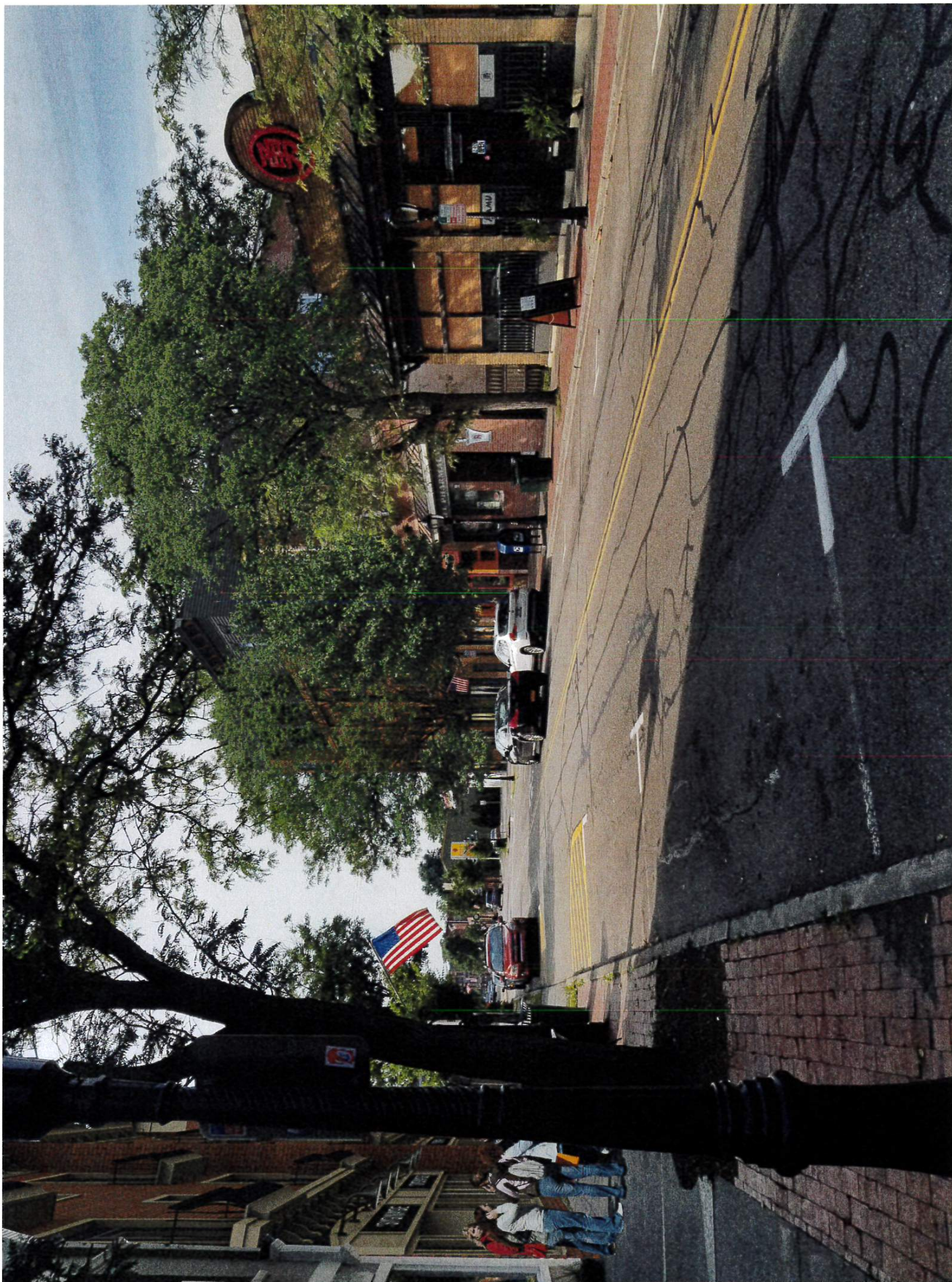
Anthony F. Morando

cc: Jennifer L. Gray, Esq.  
Drew Gamils, Esq.  
Aryeh J. Siegel, AIA  
Brendan McAlpine  
Jennifer L. Van Tuyl, Esq.

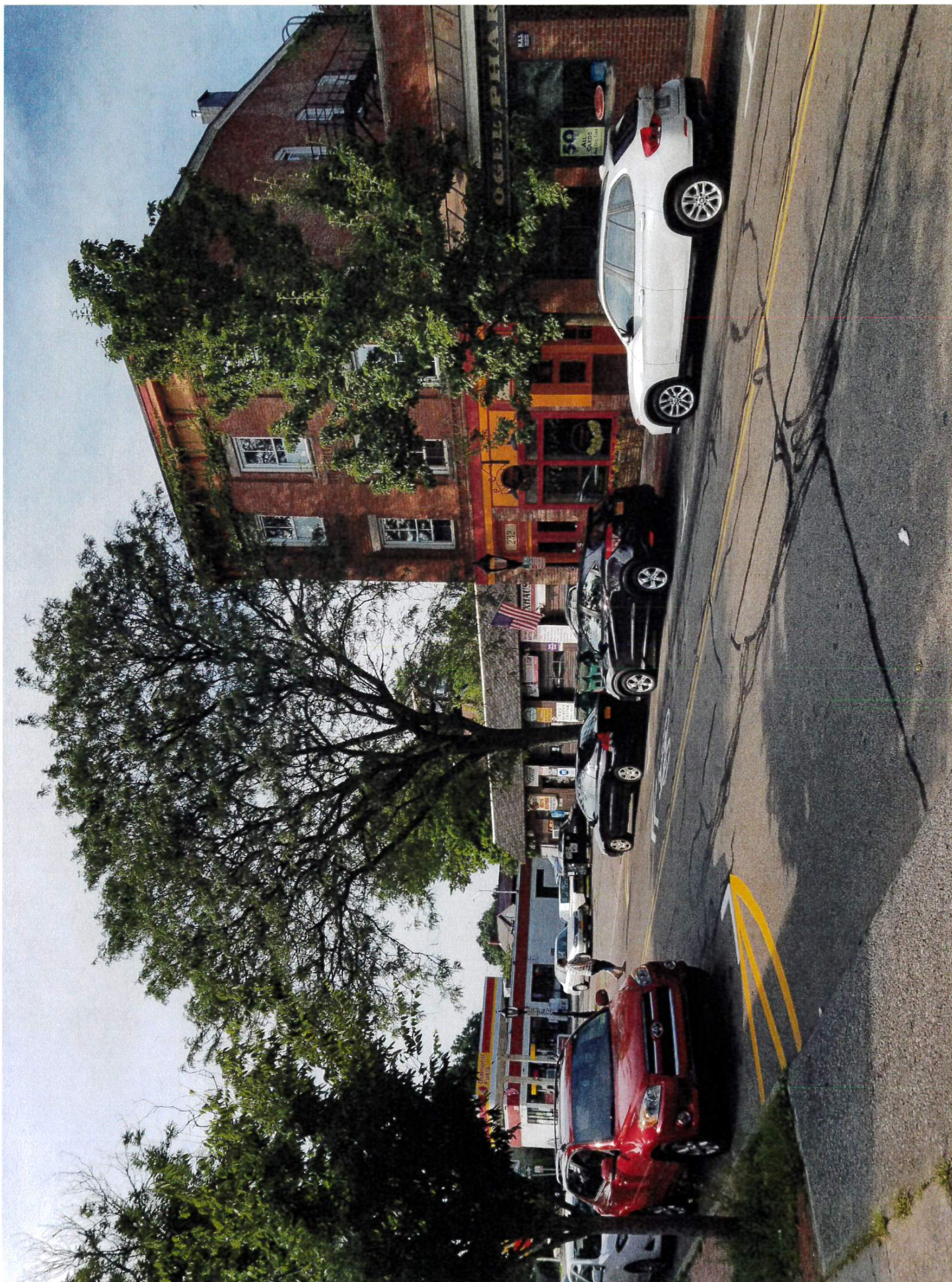




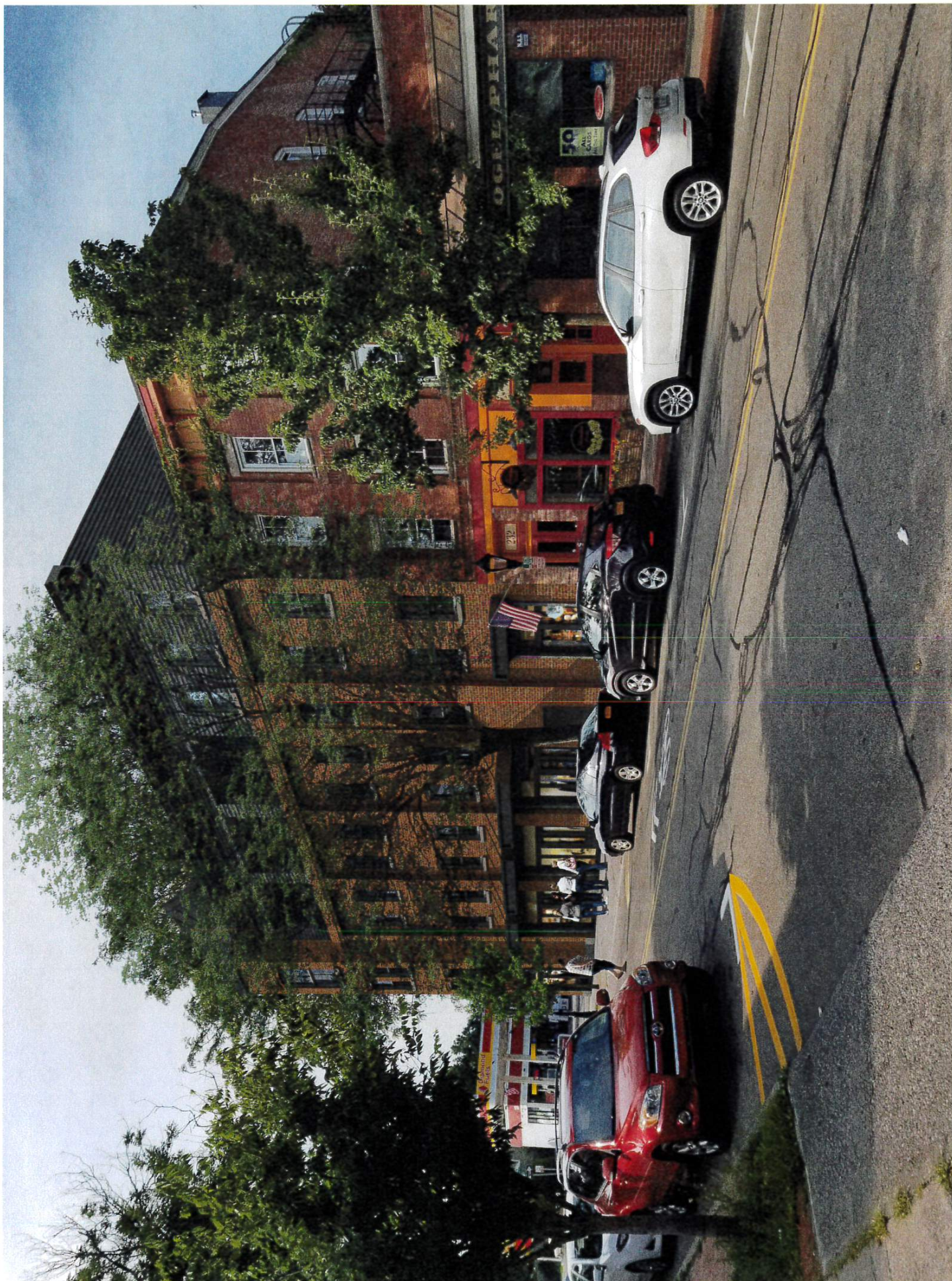
















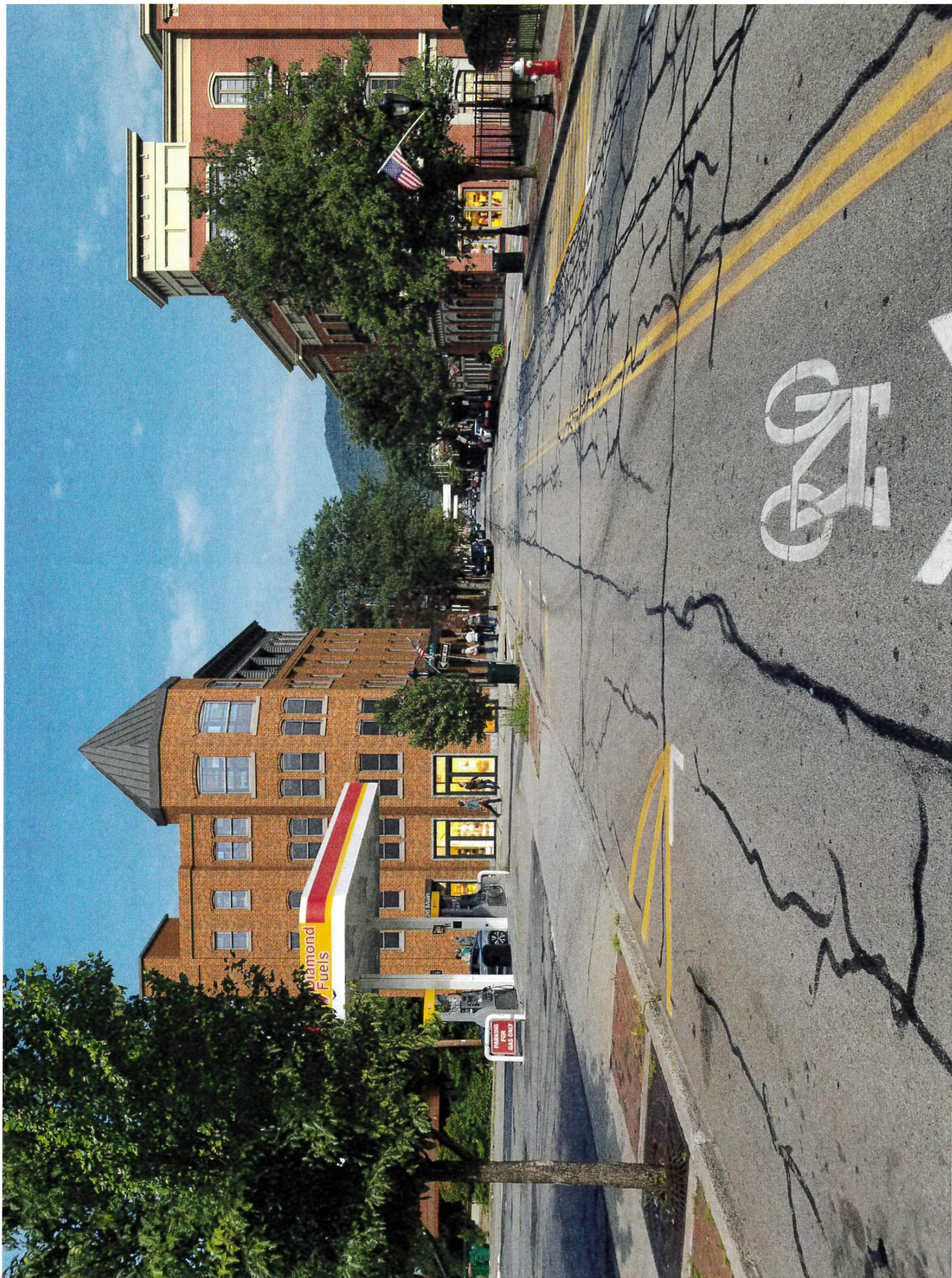














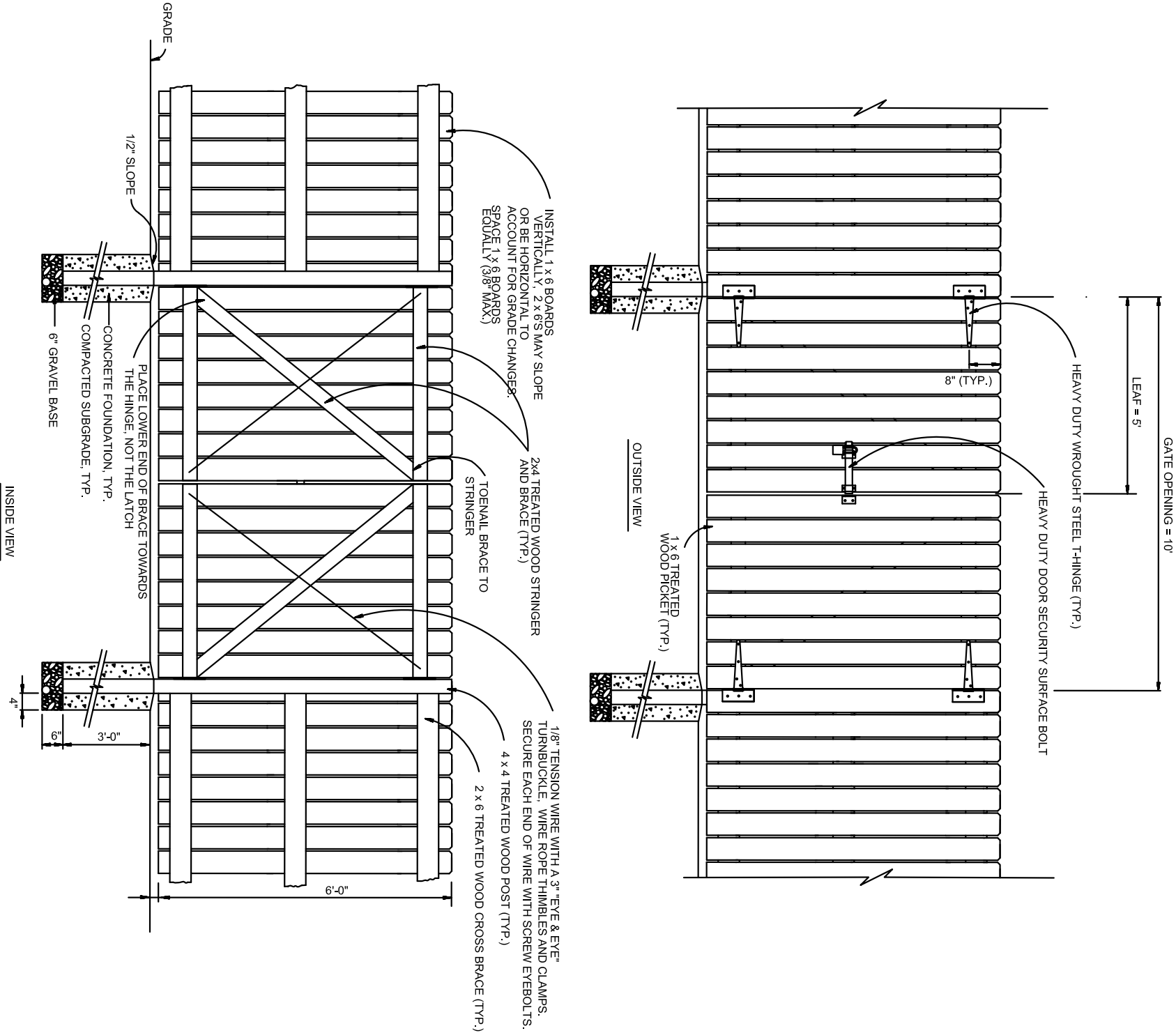
APPROVED BY RESOLUTION OF THE PLANNING BOARD OF THE CITY OF BEACON, NEW YORK, ON THE DAY OF 20, SUBJECT TO ALL REQUIREMENTS AND CONDITIONS OF THE RESOLUTION AND FURTHER, MODIFICATION OR REVISION OF THIS PLAN, AS APPROVED, SHALL VOID THIS APPROVAL.

SIGNED THIS DAY OF 20, BY

CHAIRMAN

SECRETARY

IN ABSENCE OF THE CHAIRMAN OR SECRETARY, THE ACTING CHAIRMAN OR ACTING SECRETARY, RESPECTIVELY, MAY SIGN IN THIS PLACE.



## Wood Fence & Gate Details

Not to Scale

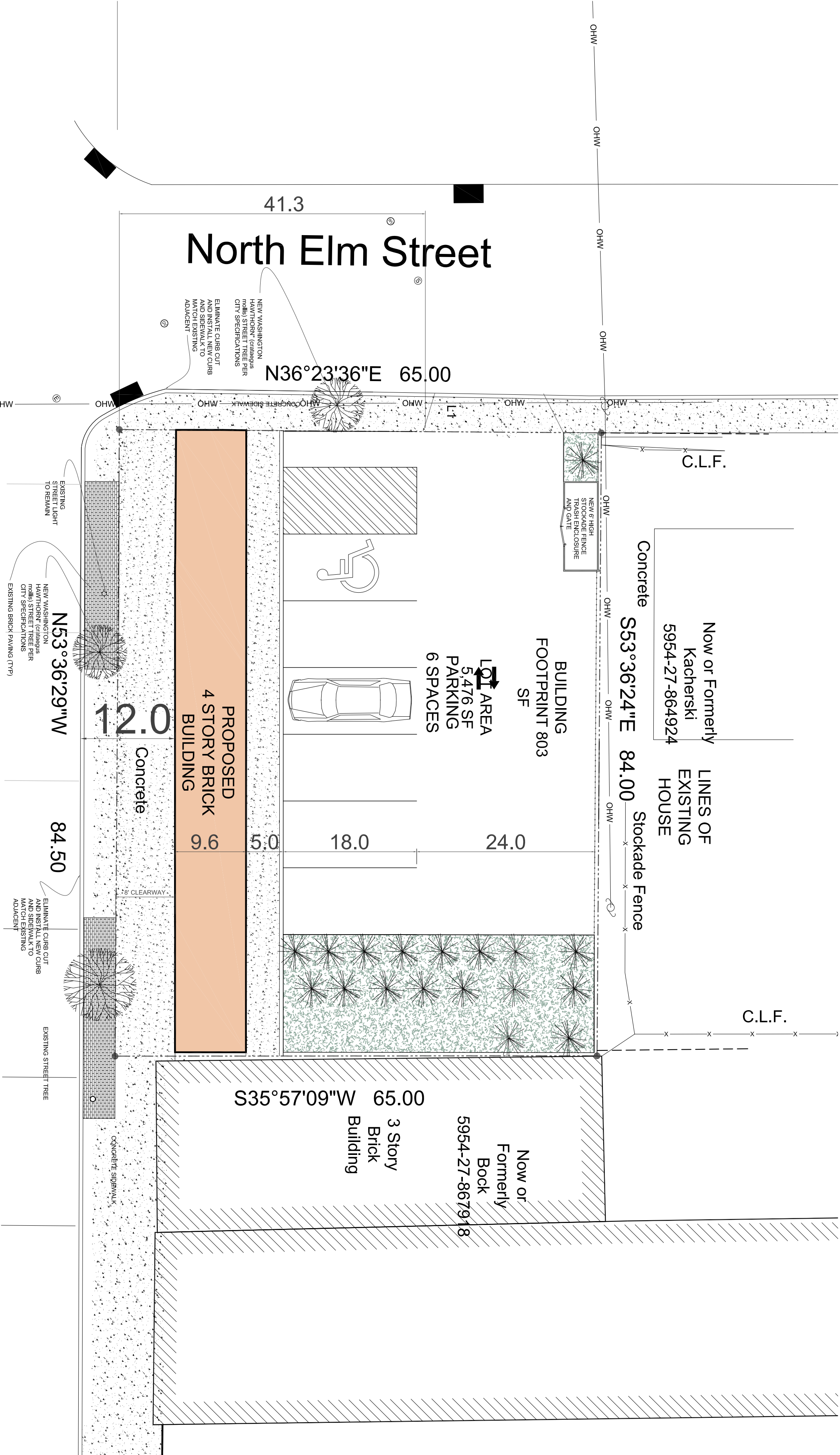


L1: Wall Mounted

## Lighting

Not to Scale

NOTE: THE MANUFACTURER DOES NOT PROVIDE PHOTOMETRIC INFORMATION FOR THESE FIXTURES. FIXTURES WILL BE SHIELDED TO AVOID LIGHT SPILLAGE ONTO ADJACENT PROPERTIES, AND TO SHIELD FROM LIGHT PROJECTING UPWARD TO THE SKY.



## Main Street

## Site Plan

SCALE: 1" = 10'  
SITE PLAN BASED ON A SURVEY BY  
TEC LAND SURVEYING, 15C TIORONDA  
AVENUE, BEACON, NY 12508. DATED  
APRIL, 18, 2017

Scale: 1" = 10'

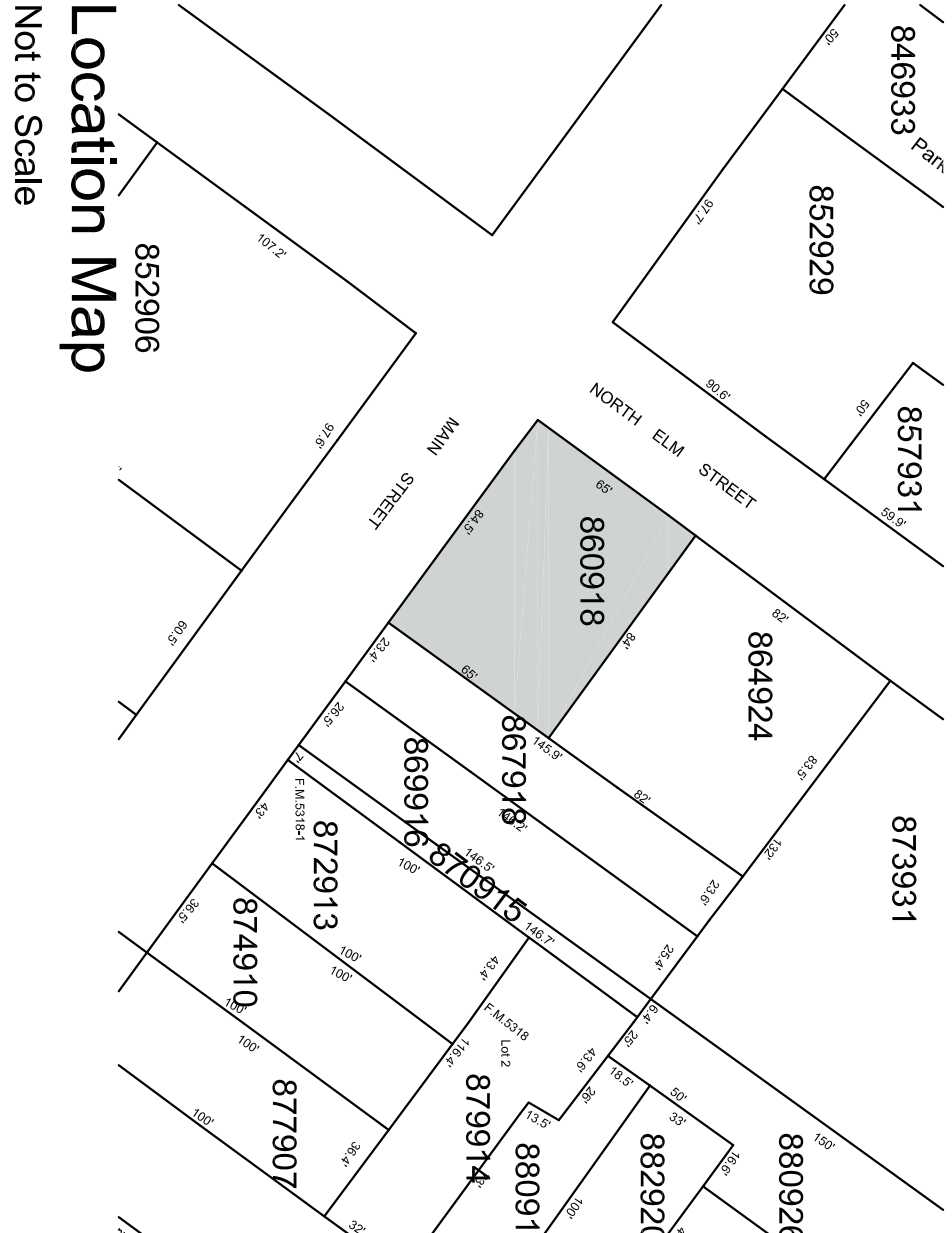
# Site Plan Application - Parking Lot Demonstration

Sheet 1 of 5 - Site Plan

## Index of Drawings

Sheet	1 of 5	Site Plan
Sheet	2 of 5	Existing Conditions Survey
Sheet	3 of 5	Building Plans & Elevations
Sheet	4 of 5	Utility and Erosion & Sediment Control Plan
Sheet	5 of 5	Construction Details

REVISIONS:		
NO.	DATE	DESCRIPTION
1	05/30/17	REVISED PER PLANNING BOARD COMMENTS
2	06/27/17	REVISED PER PLANNING BOARD COMMENTS



## Location Map

Not to Scale

## Estate of Jeffrey McGarvey

C/O Epstein & Epstein,  
PO Box 2, Beacon, NY 12508

## 328 Main Street, LLC

445 Main Street  
Beacon, New York 12508

## Aryeh Siegel, Architect

514 Main Street  
Beacon, New York 12508

## Hudson Land Design

174 Main Street  
Beacon, New York 12508

## TEC Surveying

15C Tioronda Avenue  
Beacon, New York 12508

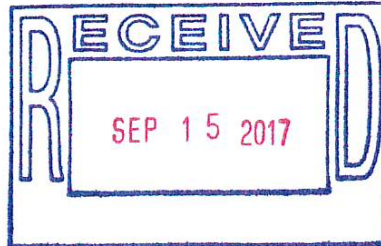
## 226 Main Street

Beacon, New York  
Scale: 1" = 10'  
April 25, 2017





300 Westage Business Center Suite 300  
Fishkill, New York 12524  
T 845 896 2229  
F 845 896 3672  
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Jennifer L. Van Tuyl  
[jvantuyl@cuddyfeder.com](mailto:jvantuyl@cuddyfeder.com)

September 15, 2017

**By e-mail and by hand**

Chairman John Dunne  
and Members of the Zoning Board of Appeals  
City of Beacon  
1 Municipal Plaza  
Beacon, New York 12508

Re: Second Supplemental Submission for 226 Main Street  
226 Main Street, Beacon, New York 12508 (SBL: 5954-27-860918)

Dear Chairman Dunne and Members of the Zoning Board of Appeals:

We respectfully submit this letter to provide the Board with supplemental information to aid in its consideration of the requested variances, and to respond to the concerns raised by the public at the July 18, 2017 public hearing.

The project seeks to improve an underutilized corner property located on Central Main Street, presently occupied by an automotive repair facility, by constructing a 4-story mixed-use retail and multifamily residential building containing ground-floor retail space and 8 apartment units on the second through fourth floors (the "Project").

The two requested area variances are summarized as follows:

A. Rear Yard Setback:

The Applicant requests relief from Zoning Code Section 223-41.18(D)(5), which requires a rear yard setback of 25 ft. The Applicant requests a variance of 15 ft., to permit a rear yard setback of 10 ft. (The existing building on the site, which would be replaced by the proposed new building, has a rear yard setback of less than one foot.)

B. Residential Parking Spaces:

The Applicant requests relief from Zoning Code Section 223-41.18(F)(2)(a), which requires 1 parking space per 1 residential unit, and thus 8 residential parking spaces, to allow zero spaces on the Premises.

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### **GENERAL COMMENTS BY THE PUBLIC:**

The Zoning Board is obligated to consider each variance separately. However, there were certain comments made by the public which were intended to apply to both variances, and those comments are addressed first.

#### ***The Right of an Applicant to Seek Variance Relief:***

There were numerous comments from the public that the ZBA should never grant a variance for any application. This clearly reflects a misunderstanding of the law.

Landowners have a constitutional due process right to request variance relief. Granting the ability to apply for variances is an essential element in preserving the constitutionality of zoning laws. Thus, the right to apply for variances is codified in New York State statutes, General City Law 81-b, and in the Beacon City Code, section 223-55 (C) (2).

#### ***General opposition to the project, or to development in general:***

Many of the comments at the public hearing were general statements of opposition to the project, or to development in general, unsubstantiated by any data or objective facts. Many commenters expressed clear animus for all new development and growth in the City, even projects such as this one, which substantially complies with the requirements and intent of the recently updated City Code and Comp Plan. Multiple commenters requested that the City oppose all development and push back on developers who do not reside in Beacon – by enacting a moratorium on all new applications.

It is well settled law that such general opposition does not provide a valid ground to deny a variance.

### **THE LEGAL TEST FOR AREA VARIANCES:**

New York law clearly states the applicable test for an area variance: weighing the *benefit* of the variance to the applicant, as against the actual *detriment*, if any, to the neighborhood from the granting of the variance.<sup>1</sup> If the benefit to the applicant outweighs the actual harm to the community, the applicant is entitled to receive the area variance.

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<sup>1</sup> See GEN. CITY LAW § 81-b; CITY OF BEACON ZONING CODE § 223-55(C)(2).



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The law does not require an applicant for an area variance to establish any “hardship.” The hardship standard applies only to use variances.

The Zoning Board is obligated to consider each variance separately. Accordingly, this submission addresses the two separate variance requests in turn.

**EASEMENT 1 - REAR SETBACK VARIANCE:**

**Precedent:**

Zoning Boards are obligated to treat similar cases in a similar way. They cannot grant variances to some applicants, but not to other applicants in similar circumstances. A critical factor with respect to the rear setback variance is the precedent of this Board’s having granted similar, and even greater, rear setback variances to other properties in similar circumstances.

Specifically, the Board granted variances to:

- **344 Main Street** (SBL: 5954-36-987833), CMS District – O’Donnell Construction Corp.: The Zoning Board of Appeals approved a 0 ft. rear yard setback where 25 ft. was required. The long, narrow site did not allow the applicant to optimize the setup of interior units in the building. The granting of this variance allowed the applicant to build a 4-story mixed use building and lay out 18 apartments and 6 retail units. Further, as a corner lot, the applicant did not want to create the appearance of a “gaping hole” at the rear of the property. The Zero rear setback variance was approved on September 15, 2015. The variance requested by 226 Main Street is less extensive than this variance. The factual circumstances are very similar, since this is also a corner lot with a unique configuration.
- **249 Main Street** (SBL: 5954-27-852906), CMS District – 249 Main Street, LLC: The Zoning Board of Appeals on the same date (September 15, 2015) approved a 10 ft. rear yard setback where 25 ft. was required, to construct a new 4-story residential/retail building.

In light of this precedent, and the similarity of the circumstances, the Board is bound by its prior precedent to make a similar determination.<sup>2</sup> The circumstances are similar, and there is no justification for a different treatment for this project.<sup>3</sup>

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<sup>2</sup> See *Knight v. Amelkin*, 68 N.Y.2d 975 (1986); *Dil-Hill Realty Co. v. Schultz*, 53 A.D.2d 263 (2d Dept. 1976).

<sup>3</sup> See *Frisenda v. ZBA of Town of Islip*, 215 A.D.2d 479 (2d Dept. 1995); *Callahan Indus. Inc. v. Rourke*, 187 A.D.2d 781 (3d Dept. 1992).





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**5 Factor Analysis of the Rear Yard Setback Variance:**

The grant of the variance is also supported by a consideration of the 5 area variance factors, even independent of the precedent of prior decisions.

**1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance.**

The existing building on the subject property sits less than 1 foot from the rear property line. The proposed variance will actually increase this significantly, reducing the nonconformity. The proposed project, including the requested setback variance will also have a positive effect on the character of the neighborhood, as documented by the Dutchess County Planning Department comments on the proposal:

The proposed redevelopment of this prominent corner on Main Street to a 4-story mixed use building with retail on the ground floor will result in a vast improvement in the appearance of this site and will add value to the parcel, and the City as a whole. The proposed site plan is in keeping with the City's regulations for the Central Main Street (CMS) district and we commend the applicant in proposing a building that upholds these standards.<sup>4</sup>

The express purpose of the CMS District is to "increase the vitality, attractiveness, and marketability of Main Street and the Central Business District by providing more flexibility of land use while maintaining and enhancing urban form as recommended by the City's Comprehensive Plan."<sup>5</sup> Furthermore, the CMS District regulations contemplate that the most ideal location to site taller buildings in the district are on corner lots.<sup>6</sup>

The City's 2007 Comprehensive Plan and 2017 Comprehensive Plan Update "encourage housing development at relatively greater densities within and adjacent to the central

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<sup>4</sup> The County's Letter, dated May 31, 2017 to the City of Beacon Planning Board is on file with the Planning Board and is enclosed herein as **Exhibit A** for the ZBA's ease of reference.

<sup>5</sup> CITY OF BEACON ZONING CODE § 223-41.16.

<sup>6</sup> CITY OF BEACON ZONING CODE § 223-41.18(B)(1)(b) (5-story buildings, which are even taller than the 4-story building currently proposed as-of-right, are permissible with special use permit: "Corner locations are deemed most appropriate for such buildings").



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business district.”<sup>7</sup> Referencing the 2007 Comprehensive Plan, the 2017 Comprehensive Plan Update recognized and affirmed that:

While Main Street is viewed as an important asset of the City, many residents expressed the need to improve the ‘transition area’ between Teller and Digger Phelps Street. This area lacks the density and architectural features of the more historic sections of Main Street to the east and west. The 2007 Plan stated that many residents felt the City should encourage the development of more residences on Main Street, particularly in the transition area, which would help provide a larger local market for businesses.

... The Main Street business district needs an increased residential population in the area near Main Street in order to support a larger market necessary for long-term economic viability.<sup>8</sup>

There is no adverse impact on the neighborhood which justifies the denial of the setback variance. The generalized claims of so-called “shadow” impacts have been investigated, and the applicant submits herewith a Shadow Study (Exhibit C) which shows that there is no perceptible difference in the nature of the shadows created by the proposed building under the 10 foot setback as compared to the 25 foot as-of-right setback. These claims are discussed in detail below under factor 4, pages 7-9.

**2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.**

The applicant cannot achieve the benefit he seeks---the construction of a viable building---without a setback variance, because of the shape and shallow nature of the Premises, and its character as a corner lot.

The facts demonstrate that the Premises and proposed development are actually comparable in lot size (in terms of overall acreage/SF) to the other lots on its block, but the Premises is distinguishable from most of the other properties because it is a corner lot. *See Exhibit B.*

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<sup>7</sup> CITY OF BEACON, 2007 COMPREHENSIVE PLAN at 7 (Population and Residential Development), 106 (Land Use, Objective C);

<sup>8</sup> See CITY OF BEACON, 2017 COMPREHENSIVE PLAN UPDATE at 61-62 (Section 4.2, Goals and Recommendations)

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Despite its comparable square footage to other lots located on its block within the CMS District, 226 Main Street is quite shallow, being only about 57 ft. deep. The requested 10 ft. setback would allow a building depth of approximately 47 ft., with an interior dimension of about 45 ft. This is the minimum feasible depth to create a layout that permits apartments to be located on either side of a central 5-foot wide corridor, and creates apartments of a viable size, each 20 ft. wide. It is infeasible to lay out an apartment unit that is less than 20 ft. deep, and still maintaining a configuration that features adequate living space and facilities. To meet Building Code requirements for a 3+ story multifamily building, the double-loaded corridor must be at least 5 ft. wide, and there must be two means of ingress/egress access to the building. Applying the 25 ft. setback requirement would make the double-loaded corridor impossible, as there would simply not be enough space within the building footprint to support the amount of square footage required by the corridor and ingress/egress access ways, and maintain reasonably sized apartment units on each floor.

Allowing the Applicant to build on the Premises and receive an economic return from its property is a legitimate "benefit" to be sought by an area variance, and cannot be rejected by a ZBA as an "unworthy" motive. This consideration is particularly applicable to the present case, where the Applicant seeks to develop this corner lot in accordance with the broader objectives of the CMS District regulations and Comprehensive Plan. It is improper for a ZBA to deny a variance and attempt to relegate an applicant to an alternative design that is a "profound departure" from, or at causing a substantial loss compared to what the applicant is seeking through the variance request.<sup>9</sup> Similarly, where an applicant seeks the benefit of a variance a ZBA may not reject a variance on the ground or allegation that the applicant doesn't "need" it.<sup>10</sup>

### **3. Whether the requested area variance is substantial.**

The variance is not substantial in its effect. The substantiality of a variance cannot be judged solely by a comparison of the percentage deviation from the mandated requirements of the Zoning Code. In considering whether a variance is substantial, the ZBA shall examine the totality of the circumstances within an application.<sup>11</sup> Thus, the

<sup>9</sup> See *Corp. of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison*, 296 A.D.2d 460, 461-62, 745 N.Y.S.2d 76, 78, 2002 N.Y. Slip Op. 05773 (2d Dept. 2002) (Court reversed ZBA's denial of variance where the ZBA attempted to force the applicant to a profound departure from its own proposal, and would cost applicant an additional \$1 million).

<sup>10</sup> See *Baker v. Brownlie*, 248 A.D.2d 527 (2 Dept. 1998) (Board may not reject a variance on the ground that the applicant doesn't "need" the variance to have a patio not facing the water).

<sup>11</sup> See *Aydelott v. Town of Bedford Zoning Bd. of Appeals*, N.Y.L.J. June 25, 2003, p. 21, col. 4 (Sup. Ct. Westchester Co. 2003) ("consideration of the percentage [of lot coverage] alone, taken in a vacuum, is not an adequate indicator of the substantiality...[A] large deviation can have little or no impact depending on the circumstances of the variance application."); *Lodge Hotel, Inc. v. Town of Erwin Zoning Bd. of Appeals*, Misc.3d 1120(A), 873 N.Y.S.2d 512 (Table), 2007 WL 5649523 2007 N.Y. Slip. Op. 52571(U) ("Substantiality cannot be judged in the abstract; rather, the totality of

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overall effect of granting the relief is the appropriate inquiry. The ZBA must consider the surrounding neighborhood and nearby lots when determining whether the application is substantial.<sup>12</sup>

Here, the requested variance is not substantial in its effect, because a 10 ft. rear yard setback is greater than the Premises' existing rear yard setback (less than 1 ft.), and is consistent with other existing properties in the CMS District. The existing building on the property is set back less than one foot from the rear property line, and other properties in the area feature rear yard setbacks of 10 feet or less, including several that were granted variances for reduced rear yard setbacks.

Moreover, even if a variance is deemed "substantial," this factor alone does not preclude the granting of a variance, since the applicant meets the overall balancing test.<sup>13</sup>

**4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

The proposed variance will have no adverse impacts on the physical or environmental conditions in the neighborhood or district. There will be no adverse effects of noise, vibrations, odor, traffic, or impact on public services, caused by a mere 15-foot reduction in rear yard setback. As the County Planning Board establishes in its letter, there will in fact be a positive visual/aesthetic effect on the neighborhood and district - as the proposed Project employs a pleasing architectural design in character with the goals of the CMS District. The increased residential density in the CMS District will revitalize Main Street's economy and contribute to a vibrant and walkable streetscape.

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relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one."); Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner, 56 A.D.3d 883, 886, 867 N.Y.S.2d 238, 241 (3d Dept. 2008)(although variances were substantial the ZBA properly determined area variances will not have a substantial impact on the community); *see also* Schaller v. New Paltz Zoning Bd. of Appeals, 108 A.D.3d 821, 824, 968 N.Y.S.2d 702, 705 (3d Dept. 2013) (upholding ZBA determination that an area variance).

<sup>12</sup> *See* Crystal Pond Homes, Inc. v. Prior, 305 A.D.2d 595 (2d Dept. 2003) (Court overturned lot area application for 12,750 square foot lot where 21,780 was required where there were a substantial amount of substandard lots in area); Gonzalez v. ZBA of Putnam Valley, 3 A.D.3d 496 (2d Dept. 2004) (denial overturned where record showed substandard lots next to subject lot and other nearby nonconforming structures similar to that sought by applicant); Corp. of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison, 296 A.D.2d 460, 461-62, 745 N.Y.S.2d 76, 78, 2002 N.Y. Slip Op. 05773 (2d Dept. 2002) (even though a variance seeking a 77% increase over the permitted height was substantial, this "does not relieve [the ZBA] from engaging in the balancing test" and the application can still be granted.).

<sup>13</sup> *See* Corp. of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison, 296 A.D.2d 460, 461-62, 745 N.Y.S.2d 76, 78, 2002 N.Y. Slip Op. 05773 (2d Dept. 2002) (even though a variance seeking a 77% increase over the permitted height was substantial, this "does not relieve [the ZBA] from engaging in the balancing test" and the application can still be granted.).

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The only public comments that had any specific connection to the proposed project included unsupported claims that a 4-story building in this location is inappropriate because it will create “shadows” on neighboring properties and it block the flow of “light and air” in the neighborhood.

These comments reflect generalized opposition to the project itself and the proposed building height, not the requested setback variance. Height is not an issue before this Board, nor is it an issue for debate, since it is zoning compliant. The Beacon Zoning Code § 223-41.18(D)(7) expressly permits 4-story buildings in the CMS District. The Zoning Code also notes that the most appropriate location for a taller building is on a corner lot.<sup>14</sup>

Moreover, under New York State law, a neighboring property owner has no natural or inherent right to light or air, and may not complain that either has been cut off by the erection of buildings on adjoining land.<sup>15</sup> Nor does such owner possess an implied visual easement over property he does not own.<sup>16</sup> It is well-settled law in New York that no easement for light or air will ever be implied in favor of one city lot over another, and that doctrine of implied easements of that kind does not exist in this state; further, no such rights may be acquired by prescription, even where the existing neighboring parcel has been in place for many decades.<sup>17</sup>

Therefore, arguments by neighbors that the proposed Project will cut off light and air access to existing buildings located on adjacent or nearby properties are without legal merit. The adjacent and neighboring property owners have no inherent right to light or air; these lots, like any other lot in a city, do not enjoy a perpetual right to undeveloped surroundings merely by virtue of having been there first. The only means by which a property owner may acquire a right to light and air is by an express easement. No such easement exists.

<sup>14</sup> See CITY OF BEACON ZONING CODE § 223-41.18(B)(1)(b) (“Corner locations are deemed most appropriate for such buildings...”).

<sup>15</sup> See Myers v. Gemmel, 10 Barb 537, 542-543 (New York Gen. Term 1851); De Baun v. Moore, 6 N.Y. Ann. Cas. 132, 32 A.D. 397, 52 N.Y.S. 1092 (2d Dept. 1898), *aff’d* 167 N.Y. 598, 60 N.E. 1110; Kingsway Realty & Mortgage Corp. v. Kingsway Repair Corp., 228 N.Y.S. 265, 223 A.D. 281 (2d Dept. 1928); 1 N.Y. Jur.2d Adjoining Landowners § 57; Pica v. Cross County Construction Corp., 259 App.Div. 128, 18 N.Y.S.2d 470 (1st Dept. 1940); Blair v. 305-313 East 4<sup>th</sup> Street Assocs., 123 Misc.2d 612 (New York Co. 1983). The English doctrine of “ancient lights” (providing that a landowner had a legal right to light and air based on an extended period of uninterrupted use and enjoyment) has been rejected in New York State and almost universally in every United States jurisdiction. See Myers v. Gemmel, 10 Barb 537, 542-543 (New York Gen. Term 1851).

<sup>16</sup> Haber v. Paramount Ice Corp., 239 App.Div. 324, 327, 267 N.Y.S. 329, *aff’d*, 264 N.Y. 98, 190 N.E. 163; Salvin v. Northbraceth Coal Co., 9 Law R., Ch. Appeals, 705, *cited in* Campbell v. Seaman, 63 N.Y. 568, 577; Blair v. 305-313 East 4<sup>th</sup> Street Assocs., 123 Misc.2d 612 (New York Co. 1983).

<sup>17</sup> Cohan v. Fleuroma, Inc., 43 A.D.2d 741, 346 N.Y.S.2d 157 (2d Dept. 1973); Wilmurt v. McGrane, 16 App.Div. 412, 418-19, 45 N.Y.S. 32 (1st Dept. 1897); Cutting v. Cutting, 86 N.Y. 41 Sickels 522 (1881); Edgerton v. Foote, 19 Wend 309 (1838); Merriam v. 352 West 42<sup>nd</sup> Street Corp., 14 A.D.2d 383, 221 N.Y.S.2d 82 (1st Dept. 1961).



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Moreover, to respond to these neighbor comments, the applicant hereby submits a "Shadow Impact Study" which establishes that the requested variance, changing the rear setback from 25 feet to 10 feet does not result in any perceptible change in shadow impacts on neighboring properties. Please refer to **Exhibit C**.

The owner of 4 North Elm Street, to the rear of 226 Main Street, objected at the last meeting that this property would suffer adverse effects if the rear setback variance is granted. The Shadow Study refutes these allegations. It is also worthy of note that the owner of 4 North Elm Street has made several offer to purchase 226 Main Street, and his opposition may be motivated by the desire to own the property himself. Moreover, upon information and belief, the owner of 4 North Elm Street, as a partner in O'Donnell Construction Corporation, is the direct beneficiary of this Board's grant of a zero feet rear yard setback at 344 Main Street. It seems inappropriate to object to one's neighbor receiving a variance, after benefitting from the grant of a similar—and even greater—variance oneself.

**5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.**

The difficulty is not self-created, but rather arises because of the shallow configuration of a corner lot, as described above. However, even if the hardship *were* self-created, this does not alone justify denial of an area variance under N.Y. GENERAL CITY LAW § 81-b(4)(b)(v).<sup>18</sup>

**Conclusion as to Easement 1 - rear setback variance**

Based upon a consideration of the 5 factors, the overall balancing test, and the binding nature of the Board's past decisions in similar cases, the applicant has established its entitlement to this variance.

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<sup>18</sup> See Matter of Daneri v. ZBA Town of Southold, 98 A.D.3d 508 (self-created nature of difficulty is not preclusive of the ability to obtain an area variance).





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**EASEMENT 2 -THE PARKING VARIANCE:**

The applicant has also requested that the Board grant a variance of the 8 required off-street spaces for the 8 new apartments. The applicant has noted that its plan provides at least 2 and possibly 3 new parking spaces along the new frontage created by the new project, and that there are two public parking lots in close proximity to the site.

**Precedent:**

As noted above, Zoning Boards are obligated to treat similar cases in a similar way. They can't grant variances to some applicants, but not to other applicants in similar circumstances. The ZBA has granted parking variances to a number of Main Street projects featuring a residential component, including:

- **232 Main Street (SBL: 5954-27-867918), Preshrock Corp., Central Business ("CB") District:** On September 16, 2003, the ZBA unanimously voted 7-0 to grant a variance of 29 parking spaces, to permit zero parking spaces where 29 were required, and further to waive the fee-in-lieu of parking requirement. The applicant established that there was no space for parking because the building had been converted from original retail use to seasonal restaurant with retail sales, and the back of the property had been converted to an outdoor dining patio to maximize investment. The applicant relied on parking available in a nearby public parking lot.
- **544 Main Street (SBL: 6054-30-129788), 544 Main Street LLC, CB District:** The ZBA voted unanimously 5-0 to grant a parking variance allowing the applicant to provide 14 off-street parking spaces where 18 spaces were required, for a variance of 4 parking spaces. The applicant intended to renovate an existing building to ground floor retail/commercial and apartments above. Due to topographic (steep slope) conditions of the site, the parking area could not be extended to the rear of the parcel. There was an adjacent municipal parking lot, which was at one time a part of the 544 Main Street property. The applicant showed that it would be impossible to provide parking on its property due to topographic conditions.
- **536 Main Street (SBL: 6054-30-132779), Grzegorz Stachnik, CB District:** The ZBA unanimously voted 5-0 on February 21, 2006 to grant a variance of 3 parking spaces, to provide 5 off-street parking spaces where 8 were required. The applicant proposed to construct a new three-story building with artist live/work space on the ground floor and apartment units on the upper floors on a vacant parcel of land.

Naturally, the consideration of a parking variance is dependent on the relevant facts. The key relevant facts in this situation are that: (1) the applicant is creating 2-3 additional parking spaces by closing in open curbs on its property; (2) the proposed property is located within 800 feet of

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two public parking lots, and (3) that studies have established available on-street parking in the neighborhood.

**5 Factor Analysis of Requested Parking Variance:**

**1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance.**

No undesirable change will be produced in the character of the neighborhood and no detriment to nearby properties will be created by granting the area variance, for three separate reasons. First, there is adequate street parking surrounding the Premises; the City's 2017 Comprehensive Plan Update noted that "The City of Beacon is well-served by current public and private parking facilities."<sup>19</sup> A 2014 parking analysis of Center City parking availability by the Dutchess County Planning Department also "suggests there is still ample parking capacity in the downtown area for future growth."<sup>20</sup>

Second, the existing street parking will be supplemented by the closing of multiple curb cuts on the Premises' frontage, thereby allowing for the addition of 2 to 3 new on-street parking spaces.

Third, there are also 2 public parking lots located within 800 feet of the property: the Pleasant Ridge Pizza lot (parking for 13 cars) and the Dutchess County Motor Vehicles lot (parking for 92 cars).<sup>21</sup> The existing and new street parking, coupled with the nearby public parking lots, are sufficient to meet the residential parking needs for the proposed use, and therefore no change in character to the neighborhood or detriment to nearby properties will be caused by the parking needs of the proposed Project. Moreover, the complaints by neighbors of crowded parking by tourists and shopper, as well as church attendees, are inapplicable to the proposed request, since demand for residential parking generally occurs at different hours than the commercial parking.<sup>22</sup>

**2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.**

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<sup>19</sup> CITY OF BEACON, 2017 COMPREHENSIVE PLAN UPDATE at 84 (Section 6: Transportation, Parking).

<sup>20</sup> *Id.*; see also Dutchess County Department of Planning and Development, *Beacon Center City Parking Analysis* at 6 (2014).

<sup>21</sup> See CITY OF BEACON ZONING CODE § 223-41.18(F)(3), which lists criteria that the Planning Board may consider in choosing to modify the residential parking requirement of ZONING CODE § 223-41.18(F)(2). "That there is sufficient public parking available within 800 feet of the site and within the CMS or PB Districts to meet foreseeable parking needs of the proposed use and surrounding uses for the duration of the proposed use." *Id.* at § 223-41.18 (F)(3)(d).

<sup>22</sup> See Dutchess County Department of Planning and Development, *Beacon Center City Parking Analysis* at 7, 15 (2014).

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There are no other viable means for the Applicant to achieve the benefit sought by the area variance. There is insufficient space on the site to construct off-street parking, while still maintaining the minimum feasible depth of the building to support a multifamily residential layout. The difficulty in providing off-street parking on this corner lot is exacerbated by the City's Zoning Code prohibition on parking within a front yard.<sup>23</sup> Because the Premises is a corner lot, it is treated as having two front yards.<sup>24</sup> Further, the CMS Zoning District regulations require that buildings within the CMS District be sited right at the streetscape, to improve the pedestrian experience.<sup>25</sup> Therefore, the only permitted location for off-street parking on this lot would be at the rear of the lot.<sup>26</sup>

But the shallow nature of the lot does not create the possibility to provide such parking. A minimum 42 ft. setback from the rear property line would be required to provide any parking at the rear of the Premises, considering that the required width/length of a parking space is 9 ft./18 ft.<sup>27</sup>, and the required width of a drive aisle is 24 ft.<sup>28</sup> This would leave only approximately 23 ft. in depth for a building sited on the lot. As detailed in the analysis for the rear setback variance, the Premises is only about 57 ft. in depth. Requiring off-street parking to be sited on the lot, leaving only 23 ft. in which to construct a building, would make not only a double-loaded corridor setup impossible, [see discussion of building requirements in analysis of setback variance above, pages 5-6] but would render any possible building configuration unworkable and the lot effectively undevelopable.

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<sup>23</sup> CITY OF BEACON ZONING CODE § 223-41.18(D)(1) ("Front setback on Main Street: minimum zero, maximum 10 feet, except that a larger maximum may be allowed if the **area in front of a building has no parking spaces** and is landscaped and used in a manner that enhances the street life on Main Street by such means as pocket parks or plazas, fountains, outdoor dining areas, public art and outdoor display of items for sale on the premises. Such outdoor space shall be landscaped with plant materials as appropriate to the use, in a configuration approved by the Planning Board." [bold emphasis added]); CITY OF BEACON ZONING CODE § 223-41.18(D)(2) ("Front setback on other streets: minimum zero, maximum 25 feet. If surrounding buildings have a larger setback, the setback line may be placed in a location that harmonizes with the prevailing setbacks, **provided that there is no parking in the front yard** other than on a driveway accessing a rear garage." [bold emphasis added]); CITY OF BEACON ZONING CODE § 223-41.18(F)(1) ("All off-street parking for buildings that have Main Street frontage **shall be located behind, underneath, or to the side** of a building. If on the side, the parking area shall be located at least 40 feet from the Main Street property line..." [bold emphasis added]); *see also* CITY OF BEACON ZONING CODE § 223-41.18(D)(13).

<sup>24</sup> CITY OF BEACON ZONING CODE § 223-41.18(D)(3) ("Corner buildings: Corner buildings **shall be treated as having frontage on both streets and front setbacks shall apply to both**, as appropriate to the street. Corner buildings with **frontage on Main Street** shall **wrap around corners** and **maintain a consistent setback line** along the side." [bold emphasis added]).

<sup>25</sup> CITY OF BEACON ZONING CODE § 223-41.18(D)(1), (2); *see also* CITY OF BEACON ZONING CODE § 223-41.18(D)(13).

<sup>26</sup> Indeed, this is the parking scheme envisioned by the Comprehensive Plan for the CMS District. *See* City of Beacon Comprehensive Plan at 106 (2007) ("The properties between Digger Phelps Street and Teller Avenue should be encouraged to be redeveloped at greater density, with incentives (such as increased floor area ratio) for new housing construction above the first floor and **parking included behind the building**." [bold emphasis added]).

<sup>27</sup> CITY OF BEACON ZONING CODE § 223-26(C)(2)(a).

<sup>28</sup> CITY OF BEACON ZONING CODE § 223-26(C)(2)(c).



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Because a building that shallow in depth is completely unworkable, parking cannot be provided on the site.

As noted in the earlier portion of this letter (see page 6), allowing the Applicant to build on the Premises and receive an economic return from its property is a legitimate "benefit" to be sought by an area variance. It is impossible to provide the required number of off-street parking spaces and still preserve the benefit sought by the Applicant; therefore, a variance from the required number of off-street parking spaces is the only means by which the Applicant can achieve the benefit sought.

### **3. Whether the requested area variance is substantial.**

The requested variance to permit zero parking spaces where 8 spaces are required is not substantial in its effect. The substantiality of a variance cannot be judged solely by a comparison of the percentage deviation from the mandated requirements of the Zoning Code. In considering whether a variance is substantial, the ZBA shall examine the totality of the circumstances within an application.<sup>29</sup> Thus, the overall effect of granting the relief is the appropriate inquiry. The ZBA must consider the surrounding neighborhood and nearby lots, including the availability of on-street and off-street parking, when determining whether the application is substantial.<sup>30</sup>

Here, the proposed Project is not substantial in its effect. The Board must consider the Applicant's parking variance request individually on its own merits, and should not be distracted by discussions of other sections of Main Street which don't have nearby public parking lots for residential parking, by complaints about tourist parking or Sunday church parking which are irrelevant to the demand for residential parking since the demands

<sup>29</sup> See Aydelott v. Town of Bedford Zoning Bd. of Appeals, N.Y.L.J. June 25, 2003, p. 21, col. 4 (Sup. Ct. Westchester Co. 2003) ("consideration of the percentage [of lot coverage] alone, taken in a vacuum, is not an adequate indicator of the substantiality....[A] large deviation can have little or no impact depending on the circumstances of the variance application."); Lodge Hotel, Inc. v. Town of Erwin Zoning Bd. of Appeals, Misc.3d 1120(A), 873 N.Y.S.2d 512 (Table), 2007 WL 56495232007 N.Y. Slip. Op. 52571(U) ("Substantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one."); Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner, 56 A.D.3d 883, 886, 867 N.Y.S.2d 238, 241 (3d Dept. 2008)(although variances were substantial the ZBA properly determined area variances will not have a substantial impact on the community); see also Schaller v. New Paltz Zoning Bd. of Appeals, 108 A.D.3d 821, 824, 968 N.Y.S.2d 702, 705 (3d Dept. 2013) (upholding ZBA determination that an area variance).

<sup>30</sup> See Crystal Pond Homes, Inc. v. Prior, 305 A.D.2d 595 (2d Dept. 2003) (Court overturned lot area application for 12,750 square foot lot where 21,780 was required where there were a substantial amount of substandard lots in area); Gonzalez v. ZBA of Putnam Valley, 3 A.D.3d 496 (2d Dept. 2004) (denial overturned where record showed substandard lots next to subject lot and other nearby nonconforming structures similar to that sought by applicant); See Corp. of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison, 296 A.D.2d 460, 461-62, 745 N.Y.S.2d 76, 78, 2002 N.Y. Slip Op. 05773 (2d Dept. 2002) (even though a variance seeking a 77% increase over the permitted height was substantial, this "does not relieve [the ZBA] from engaging in the balancing test" and the application can still be granted.").





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occur at different hours, or speculation about future development and future circumstances. The comments at the public hearing conflate this specific parking variance request with other issues, and other speculative future developments on Main Street. Whether future projects, on other properties, may have a substantial effect on existing parking is not an issue now before this Board. Likewise, this Board is not the forum in which to debate legislative issues concerning the CMS District's preference for increased residential density.

An essential part of the context of this application is the availability of two nearby municipal parking lots (with space for 13 cars and 92 cars, respectively) in the immediate vicinity. These lots supplement the available on-street parking. Additionally, the applicant will be creating 2-3 additional parking spaces immediately adjacent to this building. These existing parking resources are more than sufficient to serve central Main Street's parking needs.

**4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

The proposed variance will have no adverse impacts on the physical or environmental conditions in the neighborhood or district.

The data discussed in the previous sections establishes that the proposed Project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood or district. The proposed Project encourages walkability and access to public transportation, and will have a beneficial impact on the aesthetics, walkability, and economy of the neighborhood and district. It will also result in closing multiple curb cuts, allowing for the addition of 2 to 3 on-street parking spaces and thereby only truly generating a need for 5-6 off-site parking spaces.

**5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.**

The difficulty is not self-created, but results from the lot's shape and character as a corner lot. As discussed above, placement of the 8 required off-street parking spaces on the Premises would result in an unworkably narrow 23 ft. building envelope, rendering *any* development of the Premises infeasible. The proposed Project is in conformance with the other aspects and intent of the CMS Zoning District, and with the goals of the Comprehensive Plan, but will be impossible to achieve without obtaining the requested

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parking variance. Finally, even if the hardship *were* self-created, this does not alone justify denial of an area variance under N.Y. GENERAL CITY LAW § 81-b(4)(b)(v).<sup>31</sup>

**Conclusion with respect to Easement 2 - parking variance:**

The facts clearly show that there is ample available public parking in the neighborhood of the proposed building to provide 8 residential spaces. The proposed project itself will provide 2 or 3 new spaces immediately in front of the building. Considering the overall balancing test, the 5 factors, and the precedent of past parking variances, there is no harm to the community sufficient to outweigh the benefit to the applicant from the grant of the parking variance.

**Summary:**

The Applicant looks forward to appearing at the Zoning Board of Appeals meeting on September 19, 2017. Should you have any questions, please call me at the office. My direct line is 914-872-1941.

The following exhibits are attached to this letter:

- Exhibit A: 293-m Referral Response Letter from Dutchess County Department of Planning & Development to City of Beacon Planning Board, dated May 31, 2017;
- Exhibit B: Chart, Map, and Property Cards Illustrating Comparable Lot Sizes to the Premises located within the same Block in the CMS District; and
- Exhibit C: "226 Main Street Shadow Impact Study," prepared by Patrick Cleary, AICP, dated September 15, 2017.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'JL Van Tuyl'.

Jennifer L. Van Tuyl

cc: Edward J. Phillips, Esq.  
Eric L. Gordon, Esq.

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<sup>31</sup> See Matter of Daneri v. ZBA Town of Southold, 98 A.D.3d 508 (self-created nature of difficulty is not preclusive of the ability to obtain an area variance).





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Jennifer L. Gray, Esq.  
Aryeh J. Siegel, AIA  
Brendan McAlpine

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**Exhibit A**

**Dutchess County Department of Planning & Development,**  
**Response to City of Beacon Planning Board Referral for 226 Main Street**

May, 31, 2017 5:22PM

No. 0330 P. 2

MARCUS J. MOLINARO  
COUNTY EXECUTIVE



Eoin Wrafter, AICP  
COMMISSIONER

**COUNTY OF DUTCHESS**  
DEPARTMENT OF PLANNING AND DEVELOPMENT

May 31, 2017

To: Planning Board, City of Beacon

Re: Referral # 17-165, 226 Main Street 4-story retail/MFR Building Special Permit and Site Plan  
Parcel: 5954-27-860918, Main Street

The Dutchess County Department of Planning and Development has reviewed the subject referral within the framework of General Municipal Law (Article 12B, Sections 239-l and 239-m).

**ACTION**

The applicant is seeking a special use permit and site plan approval for the demolition of an existing 1-story service garage building and the construction of a new 4-story multifamily residential building with retail on the 1<sup>st</sup> floor.

**COMMENTS**

The proposed redevelopment of this prominent corner on Main Street to a 4-story mixed use building with retail on the ground floor will result in a vast improvement in the appearance of this site and will add value to the parcel, and the City as a whole. The proposed site plan is in-keeping with the City's regulations for the Central Main Street (CMS) district and we commend the applicant in proposing a building that upholds these standards.

**Streetscape Improvements**

Currently, the site maintains two curb cuts, one on North Elm Street and a second on Main Street to allow vehicles to access the existing service garage. As part of this project, or in the future, we suggest these curb cuts be replaced with raised curbs to allow additional on-street parking immediately adjacent to the building. As part of that project, an additional street light and street tree could be added on Main Street to continue the existing streetscape improvements further west.

**Trash Enclosure**

Retail tenants could include a deli or coffee shop or other use that could generate large amounts of waste. We note that the doors to the enclosure open to the building and not the street, and so we question what kind of receptacles will be used as it does not appear that commercial trucks will be accessing the area. The Board should ensure that the trash enclosure is appropriately sized to allow for both garbage and recycling for both the retail and residential tenants.



May. 31. 2017 5:22PM

No. 0330 P. 3

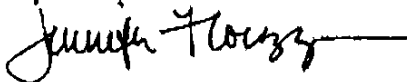
Referral 17-165; 226 Main Street 4-story retail/MFR building special permit and site plan - page 2/2

**RECOMMENDATION**

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.

Eoin Wrafter, AICP  
Commissioner

By

A handwritten signature in black ink, appearing to read "Jennifer F. Coccozza", followed by a horizontal line.

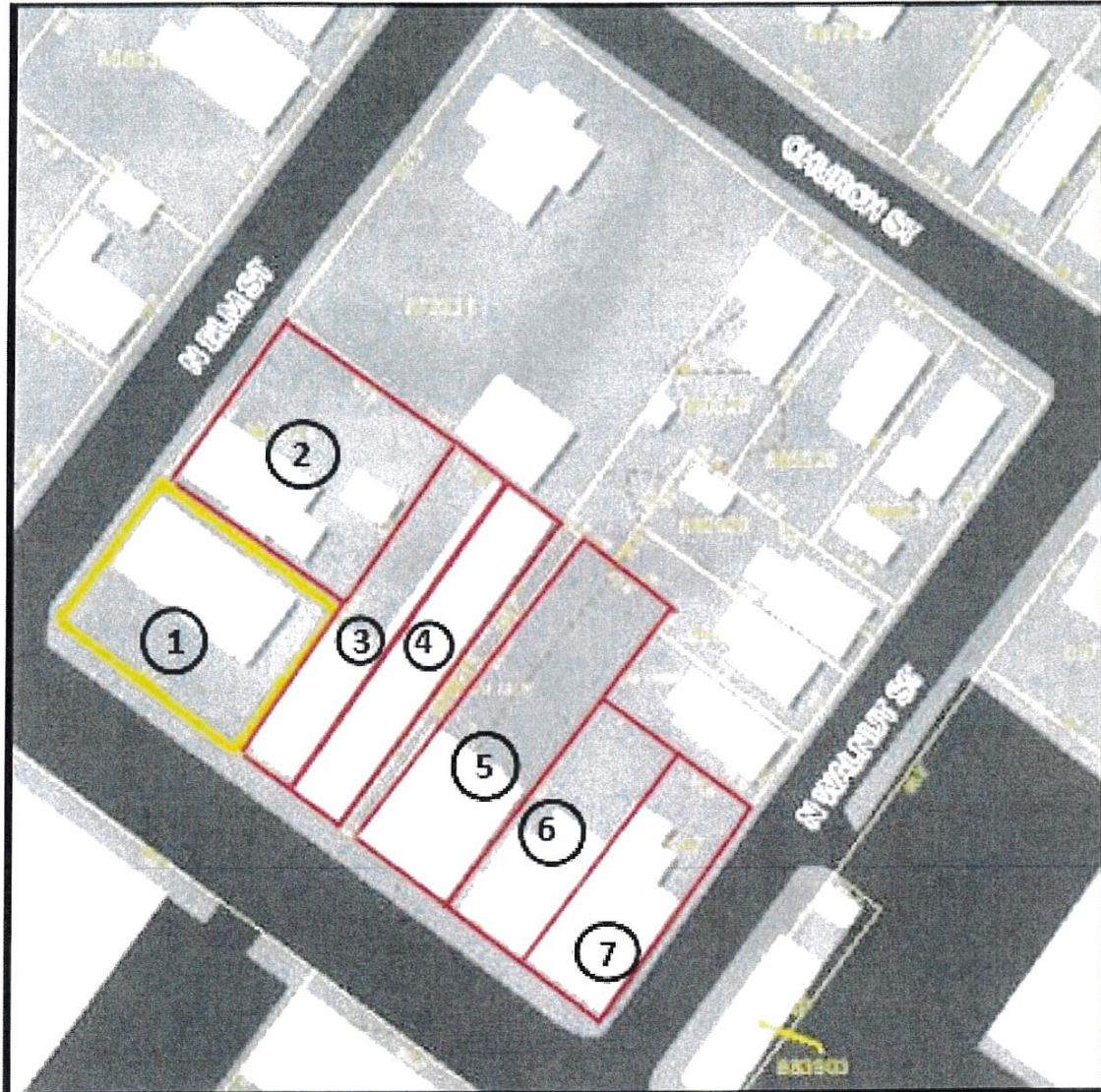
Jennifer F. Coccozza  
Deputy Commissioner

**Exhibit B**

**Comparable Lot Sizes within Same Block of 226 Main Street**

<b>No. (Map Key)</b>	<b>Address</b>	<b>SBL</b>	<b>Lot Size</b>
1	226 Main Street (the "Premises")	5294-27-860918	0.13 acres/ 5,663 SF
2	4 North Elm Street	5954-27-864924	0.15 acres/ 6,534 SF
3	232 Main Street	5954-27-867918	"23.4x146.2" = 0.08 acres/ 3,421 SF
4	234 Main Street	5954-27-869916	0.09 acres/ 3,920 SF
5	236-240 Main Street	5954-27-872913	0.15 acres/ 6,534 SF
6	242 Main Street	5954-27-874910	0.08 acres/ 3,485 SF
7 (Note: Corner Lot)	246 Main Street	5954-28-877907	0.08 acres/ 3,485 SF

**Exhibit B Map**





ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

①

**Final Roll**

**Parcel Grid Identification #:**  
130200-5954-27-860918-0000  
Municipality: Beacon

**Parcel Location**  
226 Main St

**Owner Name on March 1**  
Mc Garvey, Jeffery (P)

**Primary (P) Owner Mail Address**  
272 Baxtertown Rd  
Fishkill NY 125240000

**Parcel Details**

**Size (acres):** .13 Ac (C)  
**File Map:**  
**File Lot #:**  
**Split Town**

**Land Use Class:** (430) Commercial: Motor Vehicle Services  
**Agri. Dist.:** (0)  
**School District:** (130200) Beacon City School District

**Assessment Information (Current)**

<b>Land:</b>	<b>Total:</b>	<b>County Taxable:</b>	<b>Town Taxable:</b>	<b>School Taxable:</b>	<b>Village Taxable:</b>
\$115000	\$334700	\$334700	\$334700	\$334700	\$0
<b>Tax Code:</b>	<b>Roll Section:</b>	<b>Uniform %:</b>	<b>Full Market Value:</b>		
N: Non-Homestead	1	100	\$ 334700		
<b>Tent. Roll:</b>	<b>Final. Roll:</b>	<b>Valuation:</b>			
5/1/2017	7/1/2017	7/1/2016			

**Last Sale/Transfer**

<b>Sales Price:</b>	<b>Sale Date:</b>	<b>Deed Book:</b>	<b>Deed Page:</b>	<b>Sale Condition:</b>	<b>No. Parcels:</b>
\$0	0	1380	0238	( )	0

**Site Information:**

<b>Site Number:</b> 1	<b>Sewer Type:</b>	<b>Desirability:</b>	<b>Zoning Code:</b>	<b>Used As:</b>
<b>Water Supply:</b>	(3) Comm/public	(3) Normal	CB	(G04) Auto srv ctr
(3) Comm/public				

**Commercial/Industrial/Utility Building Information:**

<b>Site Number:</b> 1	<b>Bldg Sec.: 1 Bldg. Number:</b> 1			
<b>Year Built:</b>	<b>No. Stories:</b>	<b>Gross Floor Area:</b>	<b>Boeck Model</b>	<b>Const. Qual.:</b>
1930	1	1860	(0109) 1 sty apt load sup	(2) Average
<b>Air Cond. %:</b>	<b>Sprinkler %:</b>	<b>Alarm %:</b>	<b>No. Elevator:</b>	<b>Basement sf.:</b>
0	0	0	0	0
<b>Number Identical:</b>	<b>Condition Code:</b>			
0	3			

ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (G04) Auto srv ctr

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(10) Bays	1860	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
3	0	0	0

Improvements:

Site Number: 1

Improvement Number: 1

Structure Code:	Dim 1:	Dim 2	Quantity	Year Built
(OH1) Ovrhdoor-com	10	10	3	1960

Condition:	Grade	Sq. Ft.
(2) Fair	C	0

Site Number: 1

Improvement Number: 4

Structure Code:	Dim 1:	Dim 2	Quantity	Year Built
(LP4) Pavng-asphlt	0	0	1	1950

Condition:	Grade	Sq. Ft.
(3) Normal	D	2100

ABSOLUTELY NO ACCURACY OR COMPLETENESS GUARANTEE IS IMPLIED OR INTENDED. ALL INFORMATION ON THIS MAP IS  
SUBJECT TO CHANGE BASED ON A COMPLETE TITLE SEARCH OR FIELD SURVEY.

This report was produced with ParcelAccess Internet on 9/11/2017. Developed and maintained by OCIS - Dutchess County, NY.

ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

2

## Final Roll

Parcel Grid Identification #:  
130200-5954-27-864924-0000  
Municipality: Beacon

Parcel Location  
N 4 Elm St

Owner Name on March 1  
Kacherski, Charles (P)

Primary (P) Owner Mail Address  
N 4 Elm St  
Beacon NY 125080000

Parcel Details

Size (acres): 0.15 Ac Land Use Class: (220) Residential: Two Family Year-Round Residence  
File Map: Agri. Dist.: (0)  
File Lot #: School District: (130200) Beacon City School District  
Split Town

Assessment Information (Current)

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$39000	\$273300	\$273300	\$273300	\$273300	\$0

Tax Code:	Roll Section:	Uniform %:	Full Market Value:
H: Homestead	1	100	\$ 273300

Tent. Roll:	Final. Roll:	Valuation:
5/1/2017	7/1/2017	7/1/2016

Last Sale/Transfer

Sales Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$275000	4/6/2017 3:44:46 PM	22017	3504	(J)	1

Site Information:

Site Number: 1	Sewer Type:	Desirability:	Zoning Code:	Used As:
Water Supply:	(3) Comm/public	(2) Typical	CB	( )
(3) Comm/public				

Residential Building Information:

Site Number: 1	Year Remod.:	Building Style:	No. Stories:	Sfla:	Overall Cond.:
Year Built:	0	(08) Old style	2	1998	(3) Normal
1900					
No. Kitchens:	No. Full Baths:	No. Half Baths:	No. Bedrooms:	No. Fire Places:	Basement Type:
2	2	0	4	0	(4) Full
Central Air:	Heat Type:	Fuel Type:	First Story:	Second Story:	Addl. Story:
0	(3) Hot wtr/stm	(4) Oil	(4) 1101	(4) 897	(4) 0



ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

Half Story: 0      3/4 Story: 0      Fin. Over. Gar.: 0      Fin. Attic: 0      Unfin 1/2 Story: 0      Unfin 3/4 Story: 0

Fin Rec Room: 0      No. Rooms: 0      Grade: (C) Average      Grade Adj. Pct.: 95

**Improvements:**

Site Number: 1

Improvement Number: 1

Structure Code:  
(RP2) Porch-coverd

Dim 1:	Dim 2	Quantity	Year Built
0	0	1	1900

Condition:  
(3) Normal

Grade	Sq. Ft.
C	132

Site Number: 1

Improvement Number: 2

Structure Code:  
(RG4) Gar-1.0 det

Dim 1:	Dim 2	Quantity	Year Built
0	0	1	1900

Condition:  
(3) Normal

Grade	Sq. Ft.
C	200

Site Number: 1

Improvement Number: 3

Structure Code:  
(LS5) Pool-abv grn

Dim 1:	Dim 2	Quantity	Year Built
0	0	1	1900

Condition:  
(3) Normal

Grade	Sq. Ft.
C	314

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9/11/2017, 1:00 PM

ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (D08) Small retail

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	1380	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

Site Number: 1

Use Number: 2

Used As: (A01) Walk-up apt

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	2760	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
4	0	0	0

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4

**Final Roll**

**Parcel Grid Identification #:**  
130200-5954-27-869916-0000  
Municipality: Beacon

**Parcel Location**  
234 Main St

**Owner Name on March 1**  
Norman , Harry P (P)

**Primary (P) Owner Mail Address**  
N 165 Elm St  
Beacon NY 125080000

**Parcel Details**

**Size (acres):** .09 Ac (C)  
**File Map:**  
**File Lot #:**  
**Split Town**

**Land Use Class:** (450) Commercial: Retail Services  
**Agri. Dist.:** (0)  
**School District:** (130200) Beacon City School District

**Assessment Information (Current)**

<b>Land:</b> \$110000	<b>Total:</b> \$436500	<b>County Taxable:</b> \$436500	<b>Town Taxable:</b> \$436500	<b>School Taxable:</b> \$436500	<b>Village Taxable:</b> \$0
<b>Tax Code:</b> N: Non-Homestead	<b>Roll Section:</b> 1	<b>Uniform %:</b> 100	<b>Full Market Value:</b> \$ 436500		
<b>Tent. Roll:</b> 5/1/2017	<b>Final. Roll:</b> 7/1/2017	<b>Valuation:</b> 7/1/2016			

**Last Sale/Transfer**

<b>Sales Price:</b> \$0	<b>Sale Date:</b> 0	<b>Deed Book:</b> 1508	<b>Deed Page:</b> 0504	<b>Sale Condition:</b> ( )	<b>No. Parcels:</b> 0
----------------------------	------------------------	---------------------------	---------------------------	-------------------------------	--------------------------

**Site Information:**

<b>Site Number:</b> 1					
<b>Water Supply:</b> (3) Comm/public	<b>Sewer Type:</b> (3) Comm/public	<b>Desirability:</b> (3) Normal	<b>Zoning Code:</b> CB	<b>Used As:</b> (D08) Small retail	

**Commercial/Industrial/Utility Building Information:**

<b>Site Number:</b> 1					
<b>Bldg Sec.: 1 Bldg. Number:</b> 1					
<b>Year Built:</b> 1930	<b>No. Stories:</b> 1	<b>Gross Floor Area:</b> 2980	<b>Boeck Model</b> (0109) 1 sty apt load sup	<b>Const. Qual.:</b> (2) Average	
<b>Air Cond. %:</b> 0	<b>Sprinkler %:</b> 0	<b>Alarm %:</b> 0	<b>No. Elevator:</b> 0	<b>Basement sf.:</b> 0	
<b>Number Identical:</b> 0	<b>Condition Code:</b> 3				

ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (D08) Small retail

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	2860	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

Site Number: 1

Use Number: 2

Used As: (F05) Row storage

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	120	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

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5

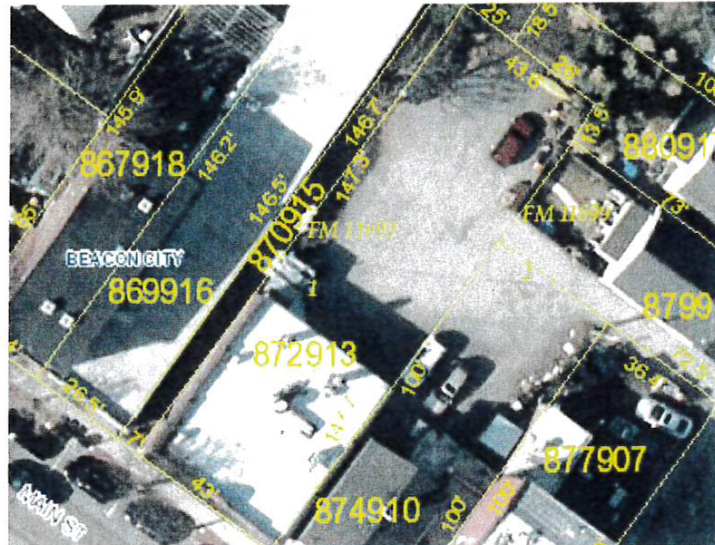
## Final Roll

Parcel Grid Identification #:  
130200-5954-27-872913-0000  
Municipality: Beacon

Parcel Location  
236-240 Main St

Owner Name on March 1  
240 Main St Beacon LLC , (P)

Primary (P) Owner Mail Address  
E 18 22nd St  
New York NY 125080000

Parcel Details

Size (acres): .15 ac (s) Land Use Class: (484) Commercial: Multiple Use or Multipurpose: One Story Small Structure  
File Map: 11699 Agri. Dist.: (0)  
File Lot #: 1 School District: (130200) Beacon City School District  
Split Town

Assessment Information (Current)

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$95000	\$315300	\$315300	\$315300	\$315300	\$0
.					
Tax Code:	Roll Section:	Uniform %:	Full Market Value:		
N: Non-Homestead	1	100	\$ 315300		
.					
Tent. Roll:	Final. Roll:	Valuation:			
5/1/2017	7/1/2017	7/1/2016			

Last Sale/Transfer

Sales Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$1	11/3/2008 3:03:02 PM	22008	6863	(B)	1

Site Information:

Site Number: 1				
Water Supply:	Sewer Type:	Desirability:	Zoning Code:	Used As:
(3) Comm/public	(3) Comm/public	( )	CB	(D08) Small retail

Commercial/Industrial/Utility Building Information:

Site Number: 1				
Bldg Sec.: 1 Bldg. Number: 1				
Year Built:	No. Stories:	Gross Floor Area:	Boeck Model	Const. Qual.:
1970	1	2100	(0312) 1 sty store load sup	(2) Average
.				
Air Cond. %:	Sprinkler %:	Alarm %:	No. Elevator:	Basement sf.:
0	0	0	0	0
.				
Number Identical:	Condition Code:			
1	3			



ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (D08) Small retail

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	2100	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

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9/11/2017, 1:04 PM

ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (C01) Restaurant

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(01) Square feet	1538	0	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	0	0	0

Site Number: 1

Use Number: 2

Used As: (A01) Walk-up apt

Unit Code:	Total Rent Area:	Area 1 Bdrms Apts	Area 2 Bdrms Apts	Area 3 Bdrms Apts
(02) Apartments	690	690	0	0

Total Units:	No. 1 Bdrms Apts	No. 2 Bdrms Apts	No. 3 Bdrms Apts
1	1	0	0

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ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

7

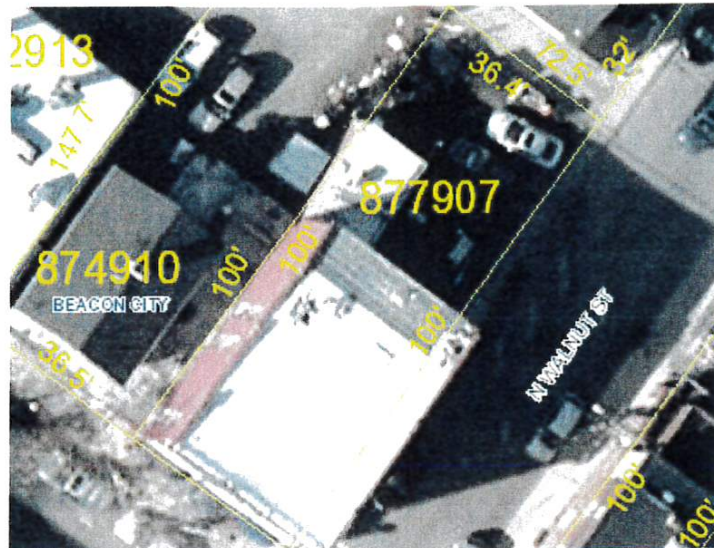
**Final Roll**

Parcel Grid Identification #:  
130200-5954-28-877907-0000  
Municipality: Beacon

Parcel Location  
246 Main St

Owner Name on March 1  
246 Main Street LLC , (P)

Primary (P) Owner Mail Address  
1166 North Ave  
Beacon NY 125080000

**Parcel Details**

Size (acres): 0.08 Ac (D) Land Use Class: (421) Commercial: Dining Establishments: Restaurants  
File Map: Agri. Dist.: (0)  
File Lot #: School District: (130200) Beacon City School District  
Split Town:

**Assessment Information (Current)**

Land:	Total:	County Taxable:	Town Taxable:	School Taxable:	Village Taxable:
\$160000	\$620800	\$620800	\$620800	\$620800	\$0
.					
Tax Code:	Roll Section:	Uniform %:	Full Market Value:		
N: Non-Homestead	1	100	\$ 620800		
.					
Tent. Roll:	Final. Roll:	Valuation:			
5/1/2017	7/1/2017	7/1/2016			

**Last Sale/Transfer**

Sales Price:	Sale Date:	Deed Book:	Deed Page:	Sale Condition:	No. Parcels:
\$1400000	4/26/2017 3:09:13 PM	22017	3494	(J)	1

**Site Information:**

Site Number: 1	Sewer Type:	Desirability:	Zoning Code:	Used As:
Water Supply:	(3) Comm/public	( )	CB	(F05) Row storage
(3) Comm/public				

**Commercial/Industrial/Utility Building Information:**

Site Number: 1				
Bldg Sec.: 1 Bldg. Number: 1				
Year Built:	No. Stories:	Gross Floor Area:	Boeck Model	Const. Qual.:
1960	3	5845	(0320) 3 sty Str/off/apt load sup	(2) Average
.				
Air Cond. %:	Sprinkler %:	Alarm %:	No. Elevator:	Basement sf.:
100	0	0	0	0
.				
Number Identical:	Condition Code:			
1	3			

ParcelAccess - Property Card

<http://geoaccess.co.dutchess.ny.us/parcelaccess/propertyCard.asp?pa...>

Commercial Rental Information:

Site Number: 1

Use Number: 1

Used As: (C06) Nbhd tavern

Unit Code: (01) Square feet	Total Rent Area: 1800	Area 1 Bdrms Apts 0	Area 2 Bdrms Apts 0	Area 3 Bdrms Apts 0
--------------------------------	--------------------------	------------------------	------------------------	------------------------

Total Units: 1	No. 1 Bdrms Apts 0	No. 2 Bdrms Apts 0	No. 3 Bdrms Apts 0
-------------------	-----------------------	-----------------------	-----------------------

Site Number: 1

Use Number: 2

Used As: (B06) Room/dorm

Unit Code: (03) Rooms	Total Rent Area: 4045	Area 1 Bdrms Apts 0	Area 2 Bdrms Apts 0	Area 3 Bdrms Apts 0
--------------------------	--------------------------	------------------------	------------------------	------------------------

Total Units: 20	No. 1 Bdrms Apts 0	No. 2 Bdrms Apts 0	No. 3 Bdrms Apts 0
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226 Main Street  
226 Main Street, LLC

## Shadow Impact Study



September 15, 2017





### **Introduction:**

This study has been prepared to respond to public comments at the public hearing that the proposed rear setback variance, reducing the permitted setback from 25 feet to 10 feet, would result in adverse effects of “shadows” on nearby buildings, including 4 Elm Street and 17 Church Street. It presents the findings of an analysis of the difference in the shadows cast by a new building proposed at 226 Main Street in the City of Beacon under both a 25-foot setback and 10-foot setback scenario.

Shadows are variable, and depend on factors such as the height and size of buildings, proximity of buildings to each other, intervening features such as topography and vegetation and the angle of the sun. The angle of the sun varies based on the rotation of the earth (i.e. time of day) and it’s elliptical orbit (i.e. change in seasons). The longest shadows are cast during the winter months, and the shortest shadows are cast during the summer months.

### **Proposed Project and Setting:**

226 Main Street, L.L.C. is proposing the construction of a new 4-story mixed-use building, consisting of first floor retail space, and 8 apartments on the second through fourth floors. (Figure 1 – Proposed Site Plan and Figure 2 Building Floor Plans & Elevations). The height of the proposed building is zoning-compliant. The issue before the Zoning Board is whether to grant an area variance to reduce the rear setback from 25 feet to 10 feet. The Zoning Board has previously granted variances to other buildings on Main Street for similar, or greater, setback variances.

The proposed building is located on Main Street in the City of Beacon, an urban setting, in the CMS zoning district. In such a setting, it is common for buildings to create shadows on nearby buildings. Such shadows are in constant motion, and vary according to weather. Cloud cover and overcast skies eliminate shadows. There are no shadow sensitive receptors immediately surrounding the site, and the existing developed “Main Street” character of the surrounding neighborhood, already results in shadows from existing buildings, which is typical in such a setting.

### **Methodology:**

The analysis presented herein demonstrates the comparable impacts of the project as currently proposed by the applicant, which is setback 10’ off the northern property line, compared to a project that is setback 25’ off the northern property line. In particular, the analysis has been designed to document the impact of project related shadows on two nearby residential properties; 4 North Elm Street and 17 Church Street, which are both located to the north of the subject site.

APPROVED BY THE BOARD OF THE BEACON BOARD OF THE CITY OF BEACON, NEW YORK, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

IN WITNESS WHEREOF, THE BOARD OF THE BEACON BOARD OF THE CITY OF BEACON, NEW YORK, HAS CAUSED ITS SEAL AND THE SEAL OF THE CITY OF BEACON, NEW YORK, TO BE HEREIN SET.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Deputy Mayor

IN WITNESS WHEREOF, THE BOARD OF THE BEACON BOARD OF THE CITY OF BEACON, NEW YORK, HAS CAUSED ITS SEAL AND THE SEAL OF THE CITY OF BEACON, NEW YORK, TO BE HEREIN SET.

Item	Quantity	Unit	Material	Remarks
1	1	Sq. Yd.	Grass	Grass
2	1	Sq. Yd.	Grass	Grass
3	1	Sq. Yd.	Grass	Grass
4	1	Sq. Yd.	Grass	Grass
5	1	Sq. Yd.	Grass	Grass

Item	Quantity	Unit	Material	Remarks
1	1	Sq. Yd.	Grass	Grass
2	1	Sq. Yd.	Grass	Grass
3	1	Sq. Yd.	Grass	Grass
4	1	Sq. Yd.	Grass	Grass
5	1	Sq. Yd.	Grass	Grass

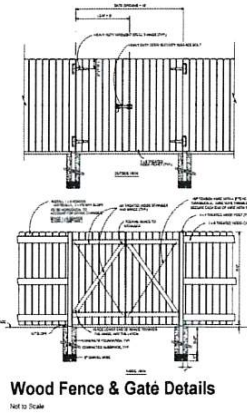


Item	Quantity	Unit	Material	Remarks
1	1	Sq. Yd.	Grass	Grass
2	1	Sq. Yd.	Grass	Grass
3	1	Sq. Yd.	Grass	Grass
4	1	Sq. Yd.	Grass	Grass
5	1	Sq. Yd.	Grass	Grass

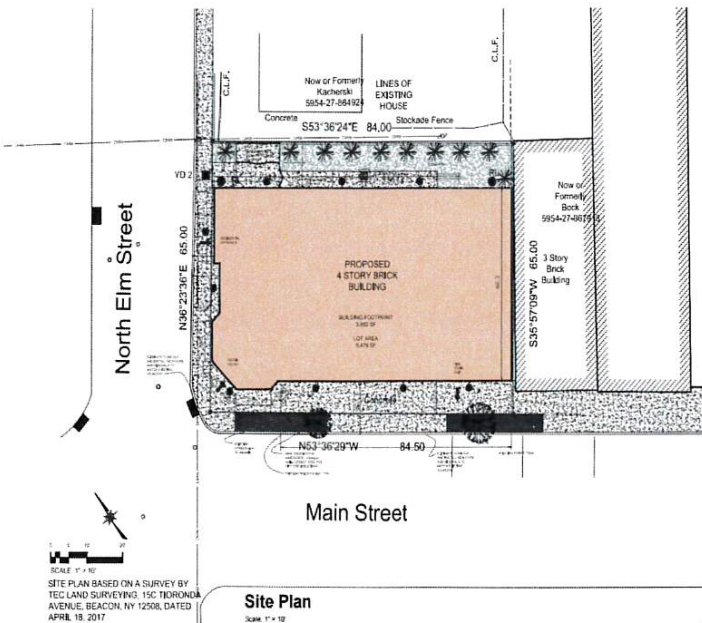
1. The applicant is required to provide a site plan of the property.
2. The applicant is required to provide a site plan of the property.
3. The applicant is required to provide a site plan of the property.
4. The applicant is required to provide a site plan of the property.
5. The applicant is required to provide a site plan of the property.

Item	Quantity	Unit	Material	Remarks
1	1	Sq. Yd.	Grass	Grass
2	1	Sq. Yd.	Grass	Grass
3	1	Sq. Yd.	Grass	Grass
4	1	Sq. Yd.	Grass	Grass
5	1	Sq. Yd.	Grass	Grass

Item	Quantity	Unit	Material	Remarks
1	1	Sq. Yd.	Grass	Grass
2	1	Sq. Yd.	Grass	Grass
3	1	Sq. Yd.	Grass	Grass
4	1	Sq. Yd.	Grass	Grass
5	1	Sq. Yd.	Grass	Grass



NOTE: THE ABOVE PICTURED LAMP DOES NOT PROVIDE PHOTOGRAPHIC INFORMATION FOR THESE PURPOSES. A STAKE WILL BE DRIVEN TO MARK THE LOCATION OF THE LAMP. THE LAMP WILL BE DRIVEN TO THE LOCATION OF THE LAMP. THE LAMP WILL BE DRIVEN TO THE LOCATION OF THE LAMP.



Site Plan Application  
Sheet 1 of 5 - Site Plan

Owner: Estate of Jeffrey McGarvey  
320 Main Street, LLC  
445 Main Street  
Beacon, New York 12508

Architect: Aryeh Siegel, Architect  
514 Main Street  
Beacon, New York 12508

Site/Civil Engineer: Hudson Land Design  
174 Main Street  
Beacon, New York 12508

Surveyor: TEC Surveying  
152 Ticonderoga Avenue  
Beacon, New York 12508

226 Main Street  
Beacon, New York  
Scale: 1" = 10'  
April 25, 2017

Source: Aryeh Siegel Architect

Scale: N.T.S.



Figure 1  
Site Plan





**226 Main Street**  
Beacon, New York  
Scale: 1" = 10'  
April 25, 2017



This shadow study is based on a computer generated 3-dimensional (3D) model of the project area. Two alternative 3D architectural models, representing the 25-foot setback and 10-foot setback scenarios, were geo-located to their precise location within the project area model in the software program SketchUp using Google Earth. Data on solar declination (angle) and position and time of day on exact dates were calculated by SketchUp.

The accepted framework of shadow analysis is to illustrate the potential shadows at the summer and winter solstice, and at the vernal and autumnal equinoxes. On June 21<sup>st</sup> at solar noon, aka the summer solstice, the sun reaches its highest point in the sky for the entire year. On December 21<sup>st</sup> at solar noon, aka the winter solstice, the sun is at its lowest midday elevation in the sky for the entire year. On March 21<sup>st</sup> and September 21<sup>st</sup> aka the vernal and autumnal equinoxes, daylight and darkness each last for 12 hours.

These four key dates are the accepted norm, since they show the range of the effects of the changing solar declination, which is the primary factor in determining shadow length. The longest shadows are cast on December 21<sup>st</sup> at solar noon, when the sun is at its lowest midday elevation in the sky for the entire year. All times are referenced as standard or daylight savings time, in keeping with standard practice. The 21<sup>st</sup> of each month is used as the standardized approximation. Depending on the calendar year, these dates may be +/- two (2) days.

The attached graphics illustrate the length of shadows in these four "snapshots" which illustrate the range of shadow lengths. To further emphasize the shadows cast by the proposed building; they have been highlighted with a yellow outline.

It must be emphasized that these graphics show a "worst-case" scenario, since they illustrate the maximum shadow, and do not account for important factors, such as (1) the fact that shadows are always changing due to cloud cover, which is in turn influenced by wind, and (2) that overcast days eliminate shadows altogether. The graphics also show the isolated effects of only a single building's shadow, ignoring the effect of the rest of the built environment. Thus, shadow studies tend to exaggerate the effect of the shadows, because they lack the overall context. Additionally such studies tend to create a false impression that a "shadow" is necessarily a negative effect. Shadows are very common in an urban built environment. In the summer, they become the "shade" that is welcomed as relief from summer heat. Again, the fleeting and changing nature of the shadows is not apparent in the "snapshot" approach, so the reviewer must keep in mind the overall context of the changing environment.

#### **Analysis:**

A time of day was selected for each of the 4 dates to demonstrate the "worst case" shadow impact on the properties situated to the north of the subject site; 3:00 PM for 3/21, 9/21 and 12/21 and 2:00 PM for 6/21.

For all dates, the most significant shadow effect occurs in the early morning and late afternoon, when the sun is lowest in the sky and the corresponding shadows are lengthiest. However, in these instances, the building's shadows would be cast to the east or west, and would not impact or be anywhere near 4 North Elm Street or 17 Church Street, which are located to the north.

For each date, two images are presented. The top image depicts the project as proposed by the applicant, with a 10' setback, and the associated shadow impacts. The bottom image depicts the shadow impacts of a modified project with a 25' setback.

**Vernal (Spring) Equinox (Exhibit 1):**

***Image A – 10' Setback*** – At 3:00 in the afternoon, the proposed building will cast a shadow across the rear two-thirds of the adjacent residence at 4 North Elm Street. The shadow would extend across the building and onto the adjacent property to the north, and would include the entire rear yard.

***Image B – 25' Setback*** – At 3:00 in the afternoon, shadows would still extend entirely across the 4 North Elm Street residence, but would extend approximately across the middle of the building instead of the rear two-thirds of the building, and onto the adjacent property to the north. The entire rear yard would continue to be cast in shadow.

**Summer Solstice (Exhibit 2):**

***Image A – 10' Setback*** - At 2:00 in the afternoon, the proposed building would cast a shadow that would extend approximately 10' up the southern wall of the residence at 4 North Elm Street, and cross the southern half of the rear yard. The shadow does not reach the roof of the residence on 4 North Elm Street, nor cross any of the building.

***Image B – 25' Setback*** – The proposed building would cast a shadow that extends along the subject site (226 Main Street) but does not extend onto the 4 North Elm Street property.

**Autumnal Equinox (Exhibit 3):**

***Image A – 10' Setback*** – The shadows created during the Autumnal Equinox are quite similar to those created during the Spring Equinox. The shadows cast by the proposed building would cross the rear two-thirds of the building at 4 North Elm Street, and the entire rear yard. The shadow would extend onto the adjacent property to the north

**Image B – 25' Setback** – The shadow cast by the building would cross the rear 1/3 of the building and would continue to extend across the entire width of that portion of the building, the entire rear yard, and onto the adjacent property to the north.

**Winter Solstice (Exhibit 4):**

**Image A – 10' Setback** – At 3:00 in the afternoon, the proposed building would cast a long shadow to the north and slightly east, crossing all of the 4 North Elm Street property and just reaching the corner of the building at 17 Church Street. This is the only time of the year, and corresponding time of the day, when a shadow cast by the proposed building would reach 17 Church Street.

**Image B – 25' Setback** – The shadow cast by the building is similar in length. It would cross the 4 North Elm Street Property and would still reach the corner of 17 Church Street, and its side yard.

**Summary & Findings:**

The comparison of the shadows in the 10-foot and 25-foot scenarios confirms that the grant of the setback variance would not result in any perceptible change in shadow impacts on adjacent properties. Solar declination, rather than building footprint, is the dominant factor in determining shadow pattern. Moving the footprint of a building would not necessarily result in a modification to shadow length because the proportional relationship between building location and shadow length is primarily dependant on solar declination. Increasing a setback by 1 foot would not result in a corresponding decrease in shadow length by a similar distance.

The shadows which would be cast by the building at the requested 10 foot rear setback would be entirely consistent with the shadows cast by other buildings along Main Street, and are entirely typical of the commercial "Main Street" setting. Nor would any sensitive shadow receptors be adversely impacted.

Shadows from the new building will cross portions of the 4 North Elm property only at very limited time periods, primarily during the mid afternoon, as the sun travels past the site from east to west. As graphically depicted herein, changing the setback of the proposed building from 10' to 25' would have a negligible impact on reducing shadow impacts on that property. The property would be similarly cast in shadow in either alternative. The only instance where the shadow crosses the 4 North Elm property line under the 10-foot setback scenario, but not in the 25-foot scenario, is at the height of the summer, where shadows are a welcome respite from the summer heat. Moreover, the shadow in that situation is extremely minor, and does not even reach the roof.

There is no material shadowing of 17 Church Street. No shadows reach the property in the growing season. The flowering plantings located along the wrought iron fencing



surrounding the site would not be impacted by new shadows cast by the proposed building. Shadows would reach a small corner of 17 Church Street only in very limited circumstances, with setback either 10' or 25', only during the very late afternoon, during the shortest days of the year. This impact consists of a shadow on the southeast corner of the building and more shade along the grassy lawn area on the east side of the building. This impact is at the height of winter, outside the growing season. This is a time of year when shadows from all buildings are longest, and also when the sky is most often overcast, a situation which eliminates shadows.

In conclusion, the requested rear setback variance does not create any perceptible difference in shadow impact as compared to the shadows to be created by a 25-foot setback, and there is no basis to deny the requested setback variance based on such alleged impacts.

EXHIBIT 1  
March 21  
Vernal Equinox  
3:00 PM

Image A – 10' Setback



Image B – 25' Setback

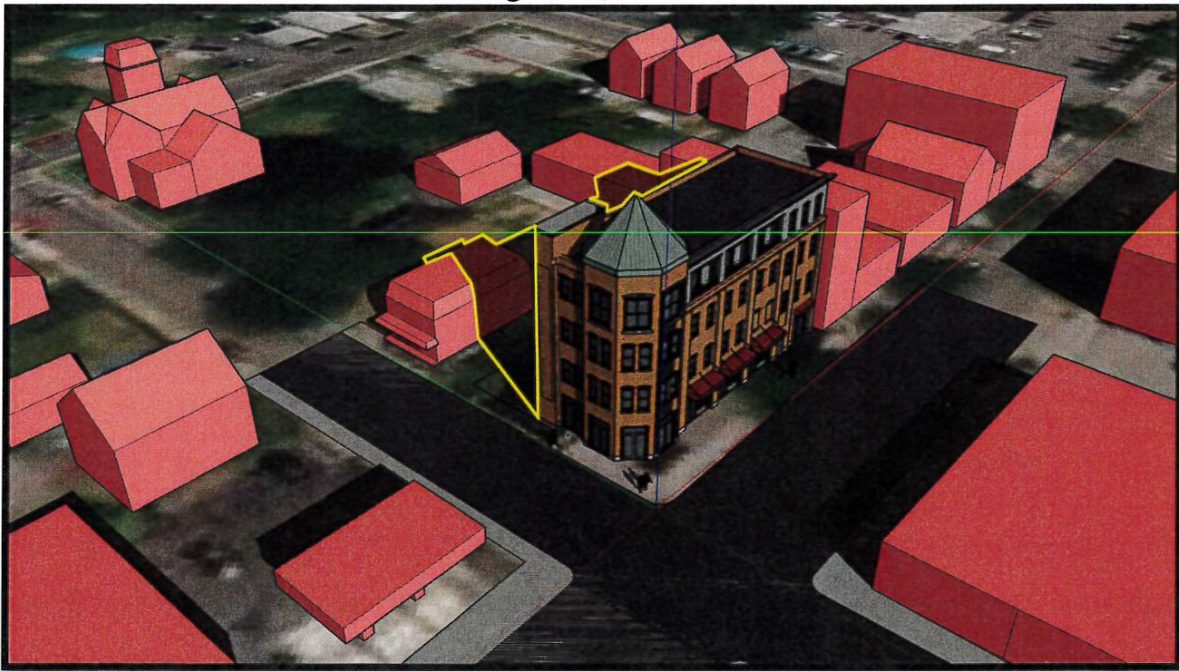




EXHIBIT 2  
June 21  
Summer Solstice  
2:00 PM

Image A – 10' Setback



Image B – 25' Setback





EXHIBIT 3  
September 21  
Autumnal Equinox  
3:00 PM

Image A – 10' Setback



Image B – 25' Setback

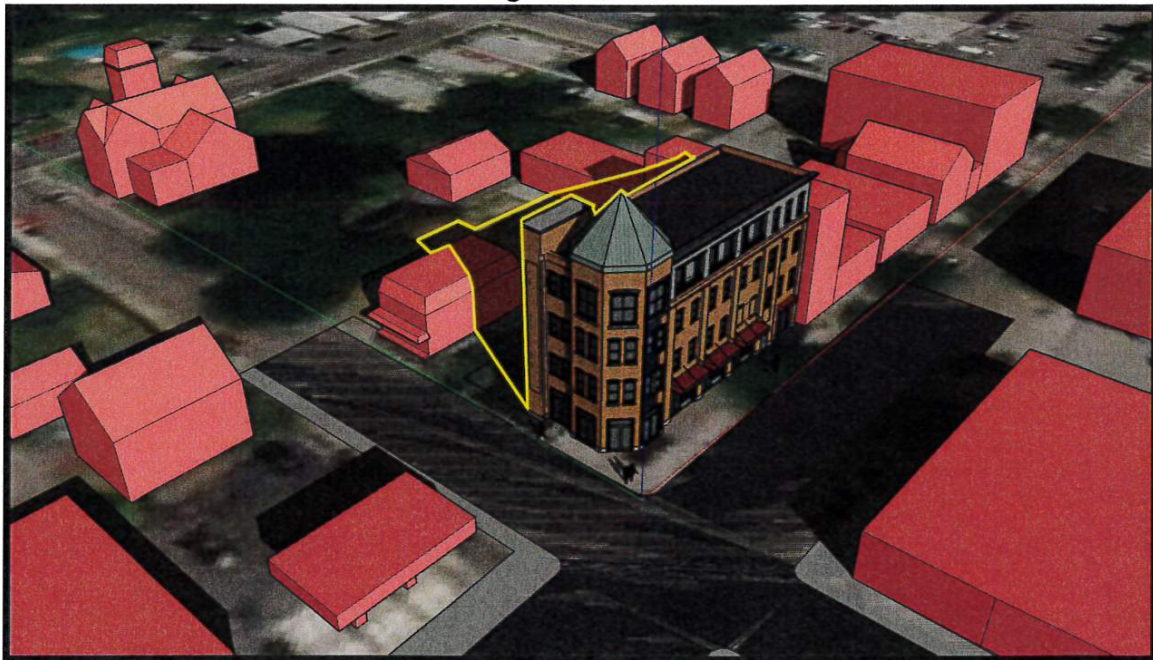




EXHIBIT 4  
December 21  
Winter Solstice  
3:00 PM

Image A – 10' Setback

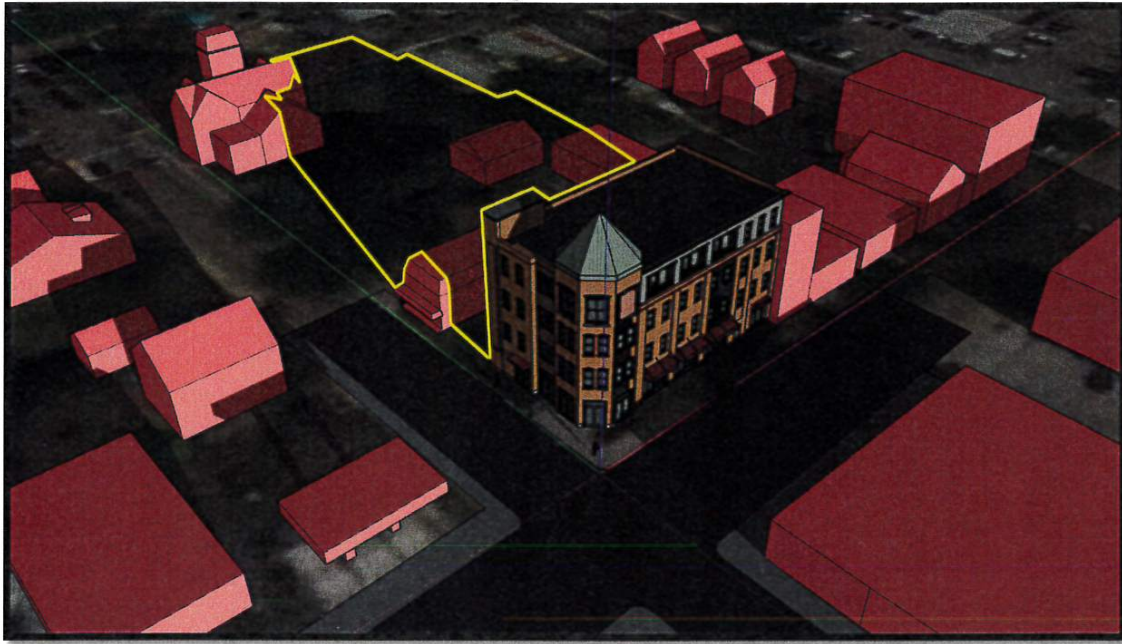
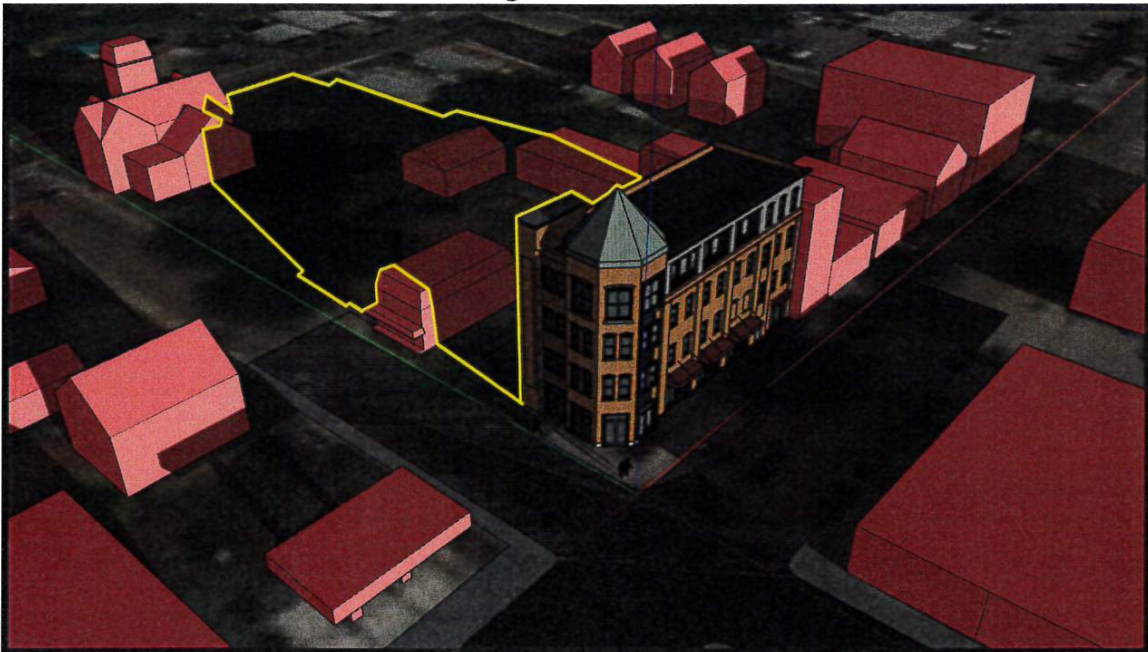


Image B – 25' Setback



**City of Beacon Planning Board**  
**10/17/2017**

**Title:**

**475 Main Street**

**Subject:**

**Item postponed at request of applicant**

Application submitted by 475 Main Street Beacon, LLC, Tax Grid No. 30-6054-37-076730-00, CB Zoning District, for relief from Section 223-26(F) for a building addition to expand existing office use with existing Main Street retail with zero parking spaces (*14 required*)

**Background:**

**ATTACHMENTS:**

Description	Type
475 Main Application	Application
475 Main Site Plan	Plans
475 Main Elevations	Plans
Letter requesting adjournment	Cover Memo/Letter



# ZONING BOARD OF APPEALS

City of Beacon, New York

## APPLICATION FOR APPEAL

OWNER: 475 MAIN STREET BEACON, LLC

ADDRESS: 101 Castleton Street

Pleasantville, NY 10570

TELEPHONE: (914) 484-2606

E-MAIL: jeffmear@themeargroup.com

APPLICANT (if not owner):

605 N. MACQUESTEN PARKWAY, L.L.C. as a single member for  
475 MAIN STREET BEACON, LLC

ADDRESS: 605 North MacQuesten Parkway

Mount Vernon, NY 10552

TELEPHONE: (914) 484-2606

E-MAIL: jeffmear@themeargroup.com

REPRESENTED BY: Taylor M. Palmer, Esq.  
Cuddy & Feder LLP

ADDRESS: 445 Hamilton Avenue, 14th Floor

White Plains, NY 10601

TELEPHONE: (914) 761-1300

E-MAIL: tpalmer@cuddyfeder.com

PROPERTY LOCATION: 475 Main Street

ZONING DISTRICT: CB (Central Business)

TAX MAP DESIGNATION: SECTION 6054

BLOCK 37 LOT 076730

Section of Zoning Code appealed from or Interpretation desired: for a building addition

Section 223-26(F) to expand existing office use with existing Main Street retail  
with zero (0) parking spaces (14 required)

Reason supporting request:

Please See Attached Narrative

Supporting documents submitted herewith: Site Plan, Survey, etc. as required:

Please See Attached Narrative, including Revised Site Plan, Shadow Study and Financial Analysis

Date: 8-29-17

475 MAIN STREET BEACON, LLC

By: 

Owner's Signature

605 N. MACQUESTEN PARKWAY, L.L.C., as a single  
member for 475 MAIN STREET BEACON, LLC

By: 

Applicant's Signature

### Fee Schedule

AREA VARIANCE	\$ 250
USE VARIANCE	\$ 500
INTERPRETATION:	\$ 250

**\*\*escrow fees may apply if required by Chairman\*\***



Taylor M. Palmer  
tpalmer@cuddyfeder.com

August 29, 2017

**BY HAND DELIVERY**  
**AND E-MAIL**

Hon. John Dunne  
and Members of the Zoning Board of Appeals  
City of Beacon  
1 Municipal Plaza  
Beacon, New York 12508

Re: Amended Area Variance Application for Required Number of Off-Street Parking Spaces  
Premises: 475 Main Street, Beacon, New York (Tax ID: 6054-37-076730)

Dear Chairman Dunne and Members of the Zoning Board of Appeals:

On behalf of 605 N. Macquesten Parkway, L.L.C., as a single member for 475 Main Street Beacon LLC, (the "Applicant"), the owner of the above-referenced Premises, we respectfully submit this request for an area variance for the required number of off-street parking spaces, in connection with a proposed expansion to the existing mixed-use building.<sup>1</sup>

The Premises is classified in the CB – Central Business Zoning District and has two (2) street frontages, with an existing (3)-story building frontage located on the south side of Main Street, west of the intersection with Tioronda Avenue, on which the 'L'-shaped Premises also fronts. The Premises is comprised of 5,362+/- sq. ft. of land, which is currently improved by a mixed-use building, with office space on the second and third floors and a retail/gallery space on the Main Street frontage.<sup>2</sup> See **Exhibit B** – Google Map Images. The existing building is adjacent to similar mixed-use buildings located along Main Street, and no changes are proposed to the footprint of the existing building.

The Applicant submitted an Amended Site Plan Application to the Planning Board proposing to expand the existing office space and maintain the retail space on the Main Street frontage. Previously, the Applicant sought a variance for residential density that is no longer required in light of the Applicant's Amended Site Plan Application, which was developed in response to public discussion and comment, including comments from the

---

<sup>1</sup> See **Exhibit A** – Amended ZBA Application Form.

<sup>2</sup> Note: In 1992, the Beacon Zoning Board of Appeals granted a density variance to construct seven (7) apartments on the Premises.



August 29, 2017

Page -2-

Howland Cultural Center.<sup>3</sup> Accordingly, the current plan was developed after the Applicant determined the economic feasibility of expanding the existing office use and maintaining the Main Street retail. Therefore, the plans have been revised to reflect an addition of 2,664+/- sq. ft. of office space to the existing mixed-use office/commercial building. See Enclosed Revised Site Plan Prepared by Aryeh Siegel, Architect, Last Revised August 29, 2017.

As this Board is aware, the City of Beacon Zoning Code and the City's Comprehensive Plan Update recognize the unique hardship faced by Main Street building owners – in particular with respect to off-street parking. Indeed, Zoning Code Section 223-26(B) provides a “grandfather” provision for buildings like 475 Main Street, which existed on April 20, 1964.<sup>4</sup> In this instant matter, because of the current CB Zoning District classification, the proposed addition “would result in a requirement for additional parking” based on the *current* parking schedule. Therefore, the Applicant seeks a parking variance for 13.32 off-street parking spaces for the office and commercial use, for the proposed addition, which is only seven (7) more spaces than would otherwise be permitted under the grandfather provision without variance.<sup>5</sup>

#### AREA VARIANCE RELIEF REQUESTED

The Applicant is requesting that the Zoning Board of Appeals (“ZBA”) grant area variance relief from Zoning Code § 223-26(F), which requires one (1) off-street parking space to be provided per 200 sq. f.t of commercial or office use, to permit zero (0) parking spaces where 13.32 spaces are required.

Pursuant to Zoning Code § 223-26(B), uses in existence prior to 1964 are not required to provide the amount of parking facilities that would be required under the existing Code, unless the intensification or expansion of the existing use, or the addition of a new use, exceeds twenty-five percent (25%) of the original parking facilities that would have been required pursuant to the 1964 version of the Code. The existing 6,303 SF mixed-use office/commercial building has been in existence as an office use prior to 1964; therefore, the original portion of the building is grandfathered under the Code and no new parking must be provided. However, the 2,664+/- SF addition to the Premises, pursuant to the

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<sup>3</sup> In a letter dated July 13, 2017, the Howland Cultural Center identified in relevant part that it believes that the “... highest and best use of this property, at least from the community's point of view, would be for retail, office and studios, which are historic uses and ones that appear to be in demand.”

<sup>4</sup> According to research from the Beacon Historical Society, including the 1964 Beacon Directory, the existing use of the first floor in 1964 was for a retail (hardware store), with professional legal offices on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.

<sup>5</sup> **Note:** under the City's proposed rezoning to extend the CMS District to the lower sections of Main Street, as currently drafted, the existing improved Premises *would not* be required to obtain area variance relief for parking – as only 23 total spaces would be required (2.5 spaces per 1,000 sq. ft.), which includes the proposed addition.





August 29, 2017  
Page -3-

current zoning requirement of 1 space per 200 SF of office/retail area, will require approximately 13.32 parking spaces. As this exceeds the 25% threshold of the amount of parking spaces that would have been required in 1964, the Applicant is thus obligated by the Code to provide 13.32 new parking spaces, requiring an area variance from this Board.

### AREA VARIANCE STANDARDS

In considering the granting of the requested area variance, N.Y. GENERAL CITY LAW §81-b and Zoning Code § 223-55(C)(2) provide that a ZBA shall consider the benefit to the Applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. For the following reasons, we respectfully submit that upon balancing the area variance criteria, the granting of the requested area variance is warranted:

***Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.***

The granting of the requested area variance for the proposed building addition will not produce an undesirable change in the character of the neighborhood, nor will it be a detriment to nearby properties. The existing street parking, coupled with the nearby public parking lots, are sufficient to meet the parking needs for the proposed use, and therefore no change in character to the neighborhood or detriment to nearby properties will be caused by the parking needs of the proposed Project.

Moreover, the demand for office parking generally occurs at different hours than residential or commercial/retail parking. Unlike residential parking, which requires spaces for evenings and overnight, or commercial parking, which is at its heaviest on the weekends, office parking is generally in highest demand Monday through Friday, 9:00AM to 5:00PM. Therefore, the proposed office space is complementary to the surrounding existing and proposed residential and retail/commercial uses, and will not increase parking demand or produce any detriment to the surrounding neighborhood or properties. Thus, there will be no undesirable change and no adverse impacts to the character of the Main Street mixed-use neighborhood by the granting of the parking variance, which is consistent with the character of the neighborhood.

***Whether the benefit sought by the applicant can be achieved by some method, feasible to the applicant to pursue, other than the area variance.***

Zoning Code §223-55(C)(2)(b)(2) requires the ZBA to consider “whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to



August 29, 2017

Page -4-

pursue, other than an area variance.” The range of appropriate alternatives is limited by two (2) standards: First, the alternative must still provide the benefit sought by the applicant and, second, it must be feasible for the applicant to pursue. A ZBA may not deny a variance and attempt to relegate an applicant to an alternative design that is a “profound departure” from, or substantially more costly than, the design proposed in the variance. Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. ZBA of Town/Village of Harrison, 296 A.D.2d 460 (2d Dept. 2002). See also, Baker v. Brownlie, 248 A.D.2d 527 (2d Dept. 1998) and Salkin, New York Zoning Law & Practice § 29:36 Administrative Relief from Zoning Regulations: Variances.

Here, there are no other viable means for the Applicant to achieve the benefit sought by the area variance. Provided the building’s proximity to the Howland Cultural Center the Applicant has taken into account the comments from the Planning Board and the adjacent property owner to create quality office space on the heart of Main Street that is economically viable. As shown in the enclosed Financial Analysis, prepared by an experienced licensed real estate broker, Mr. Daniel Aubry, of Daniel Aubry Realty,<sup>6</sup> the proposed addition is necessary to provide a reasonable return on the Premises (especially, because the Application no longer includes a residential component as requested by the Howland Cultural Center). In order to build the proposed addition, an additional stair tower is required, occupying approximately 450 sq. ft. of the addition. Therefore, nearly 2.5 new spaces are required for floor area that is used to access occupiable space. No changes are proposed to the existing building footprint, which has existing since prior to 1964. There is insufficient space on the ‘L-shaped’ lot to construct any off-street parking, while maintaining the integrity of the existing building footprint. The requested variance is also unique, because it seeks relief for office and retail use, rather than residential use in the CB District.

### ***Whether the requested area variance is substantial.***

It is respectfully submitted that upon the consideration of the facts and circumstances in the instant Application, the requested area variance is not substantial. “Substantiality” is not solely a matter of the mathematical proportion of the permitted minimum that the Applicant is seeking to vary. Rather, the important test is always whether the variance will actually have a detrimental effect on the neighborhood.<sup>7</sup>

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<sup>6</sup> Enclosed as **Exhibit C**, is a copy of a Financial Analysis of the proposed development on the Premises, prepared by Daniel Aubry, of Daniel Aubry Realty, who is very familiar with the marketing of residential properties in the City of Beacon.

<sup>7</sup> See Aydelott v. Town of Bedford Zoning Bd. of Appeals, N.Y.L.J. June 25, 2003, p. 21, col. 4 (Sup. Ct. Westchester Co. 2003) (“consideration of the percentage [of lot coverage] alone, taken in a vacuum, is not an adequate indicator of the substantiality....[A] large deviation can have little or no impact depending on



August 29, 2017

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The requested variance is not substantial in its effect, because granting the variance will not have a substantial impact on the availability of parking in the surrounding area, given the proximity of two (2) public parking lots, the existing street parking, and the complementary nature of office parking to residential and retail/commercial parking needs (as discussed above under Criteria 1).

Moreover, even if a variance is deemed “substantial,” this does not preclude the granting of a variance where the applicant meets the overall balancing test, i.e. the benefit of the applicant outweighs any adverse effect on the neighborhood.<sup>8</sup> We submit there is no such adverse effect in this matter.

***Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.***

The proposed nonresidential expansion of the existing building constitutes an action exempt from the State Environmental Quality Review Act (“SEQRA”) because this is a Type II Action. See 6 NYCRR § 617.5(c)(7). The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, as noted above, since the proposal for no off-street parking spaces is consistent with the existing character along Main Street. Providing no off-street parking will have no adverse effects of noise, vibrations, odor, traffic, or impact on public services. As discussed under Criteria 1, the peak parking times for the proposed office use is complementary to those of the surrounding residential and retail/commercial uses. Accordingly, the proposed expansion of the nonresidential structure for office use, which has historically been the use of the Premises, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

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the circumstances of the variance application.”; Lodge Hotel, Inc. v. Town of Erwin Zoning Bd. of Appeals, Misc.3d 1120(A), 873 N.Y.S.2d 512 (Table), 2007 WL 56495232007 N.Y. Slip. Op. 52571(U) (“Substantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one.”); Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner, 56 A.D.3d 883, 886, 867 N.Y.S.2d 238, 241 (3d Dept. 2008)(although variances were substantial the ZBA properly determined area variances will not have a substantial impact on the community); see also Schaller v. New Paltz Zoning Bd. of Appeals, 108 A.D.3d 821, 824, 968 N.Y.S.2d 702, 705 (3d Dept. 2013) (upholding ZBA determination that an area variance).

<sup>8</sup> See Corp. of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison, 296 A.D.2d 460, 461-62, 745 N.Y.S.2d 76, 78, 2002 N.Y. Slip Op. 05773 (2d Dept. 2002) (even though a variance seeking a 77% increase over the permitted height was substantial, this “does not relieve [the ZBA] from engaging in the balancing test” and the application can still be granted.”).





August 29, 2017

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***Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.***

The area variance requested herein is not self-created, but instead is the result of the hardship created by the 'L'-shaped lot and the existing development on the Premises. The building at 475 Main was constructed prior to the implementation of Zoning in the City of Beacon. As discussed above, the design presented herein seeks to use a portion of the existing building otherwise undeveloped with a revenue generating use, thus permitting the benefit sought herein. The proposed alterations and additions realize the use of the Premises. Therefore, it is respectfully submitted that the Applicant's request for relief here is not self-created, and to the extent that the ZBA may believe otherwise, we respectfully remind the ZBA that this factor is not dispositive pursuant to N.Y. VILLAGE LAW § 7-712-b(3)(b)(5). See Daneri, 98 A.D.3d 508 (self-created nature of difficulty is not preclusive of the ability to obtain an area variance).

#### **CONCLUSION**

The overall test for the grant of an area variance is whether the benefit to the applicant if the variance is granted, as weighed against any detriment to the health, safety and welfare of the neighborhood or community by such grant. After considering each of the 5 factors discussed above, for each of the requested variances, the Applicant respectfully submits that there is no harm to the community that weighs against the benefit to the Applicant, and that the proposed variance is the minimum variances that meets the Applicant's needs and at the same time fully protects the character of the neighborhood and the health, safety and welfare of the community.

In support of this application, please find enclosed one (1) original copy of the instant letter with the following documents:

- Exhibit A:** Amended City of Beacon ZBA Application Form for Area Variance;
- Exhibit B:** Google Maps Aerials of the Premises; and
- Exhibit C:** Financial Analysis of the proposed development on the Premises, prepared by Daniel Aubry, of Daniel Aubry Realty;



August 29, 2017  
Page -7-

In further support of this Application, we respectfully submit site plans entitled "Site Plan Application – 475 Main Street", prepared by Aryeh Siegel, Architect, dated March 28, 2017, last revised August 29, 2017.<sup>9</sup>

The Applicant looks forward to appearing at the September 19, 2017 meeting. Should the ZBA or City Staff have any questions or comments with regard to the foregoing, please do not hesitate to contact me. Thank you for your attention to and consideration of this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Taylor M. Palmer", is written over a horizontal line.

Taylor M. Palmer

Enclosures

cc: Edward J. Phillips, Esq.; Jennifer L. Gray, Esq.; Aryeh J. Siegel, AIA

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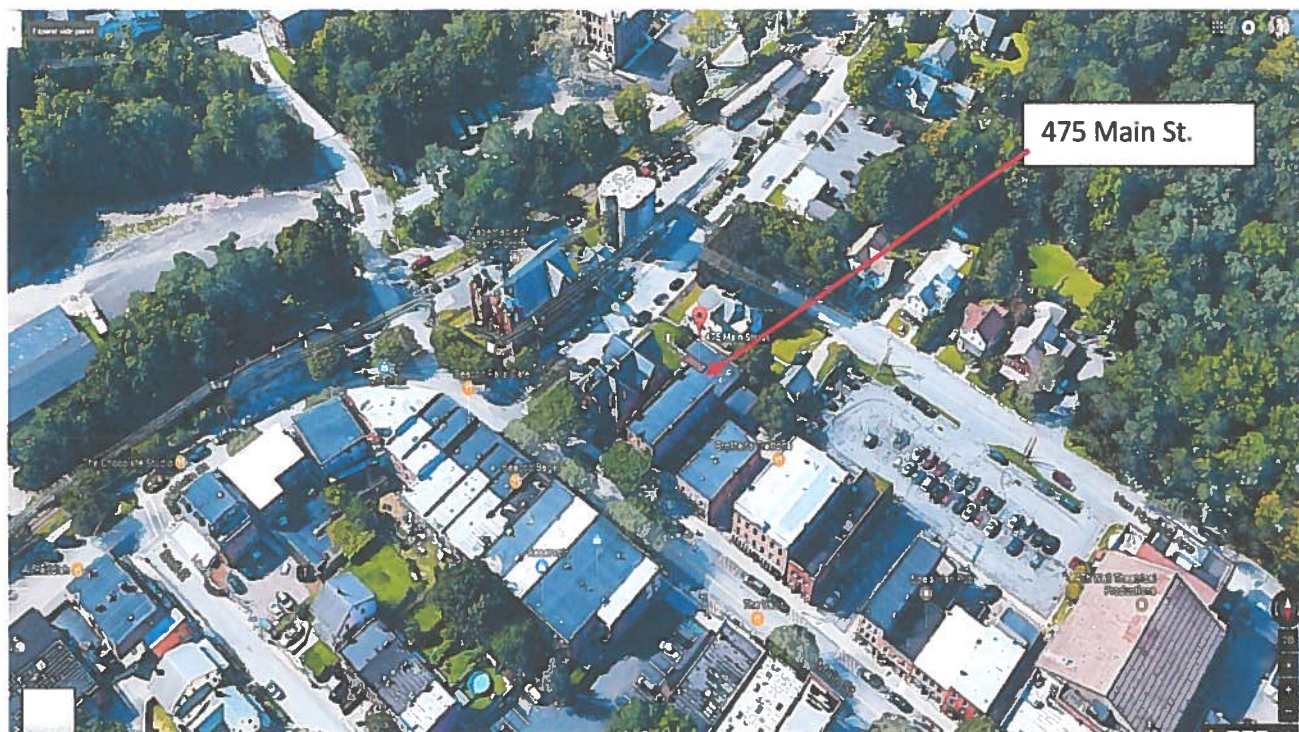
<sup>9</sup> The Applicant previously submitted a check payable to the City of Beacon in the amount of \$250, representing the Area Variance application filing fee. The Applicant has not yet appeared at the ZBA in connection with this application.



## Exhibit B

### Google Map Aerials – 475 Main Street

#### View of Premises Facing South:



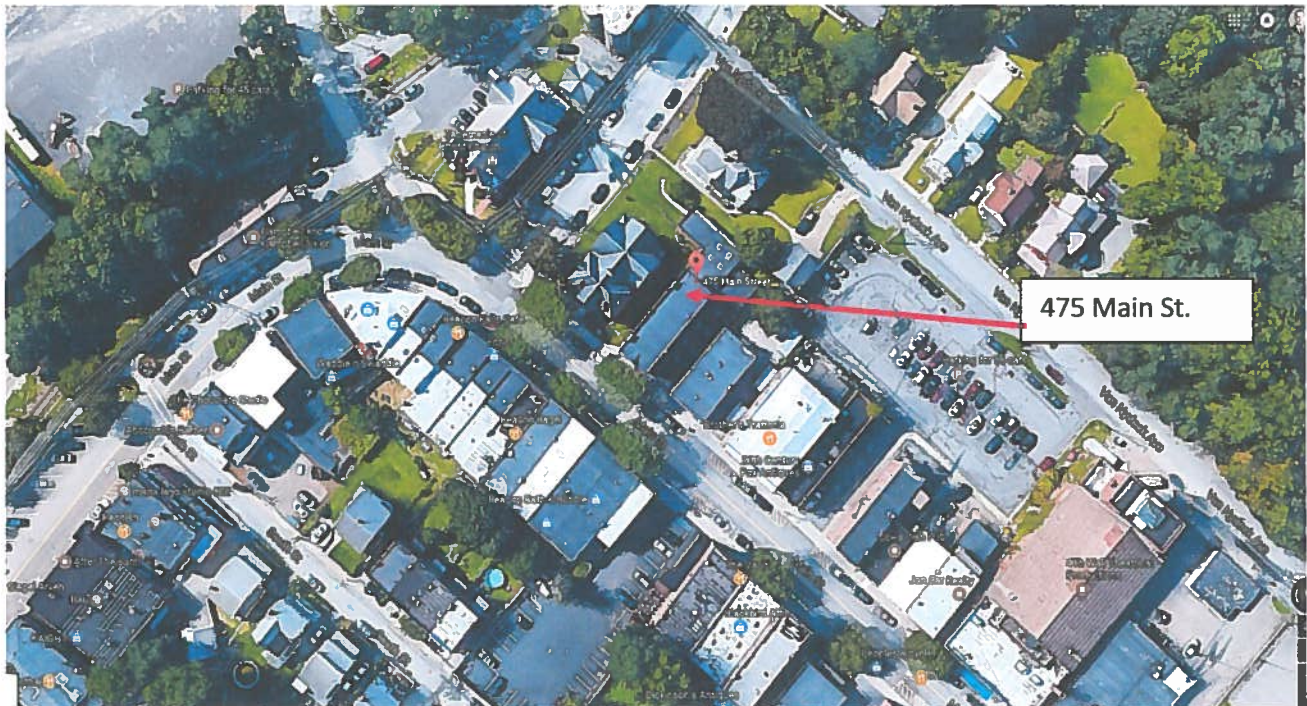
#### View of Premises Facing North:





## Exhibit B (Cont.)

### Ariel View (Birds-eye) of Premises Facing North:



### View of Premises From Tironda Avenue:





## Exhibit B (Cont.)

### Street View of Premises From Main Street Facing South:



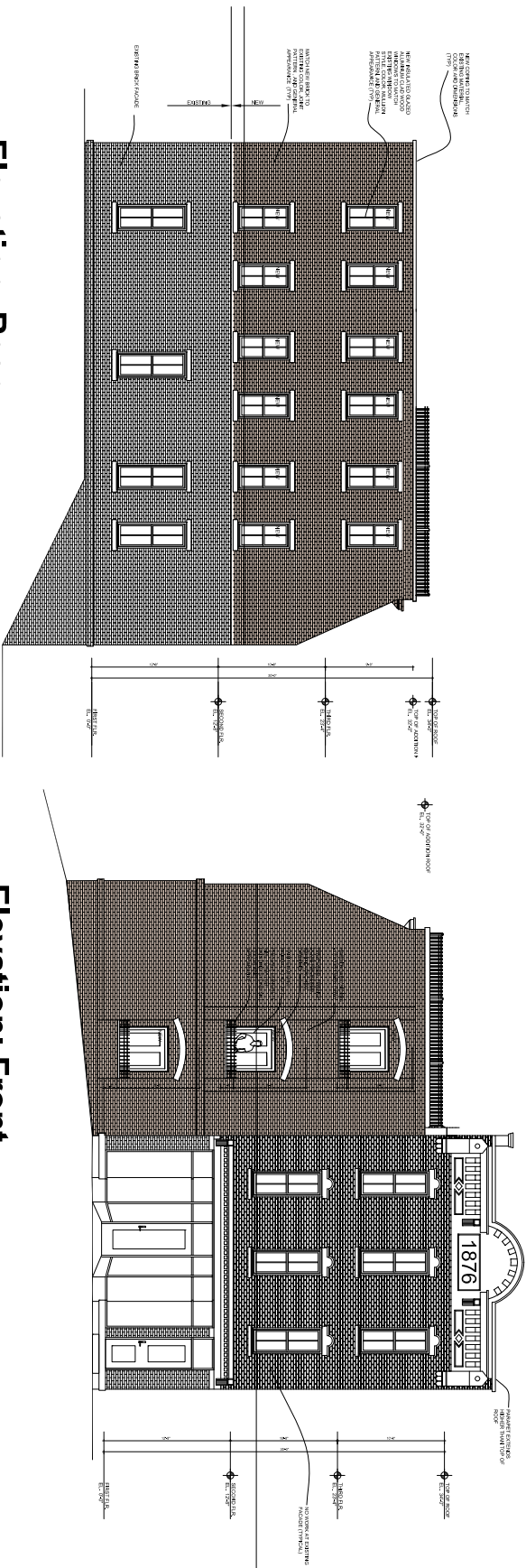
### Street View From Main Street Premises Facing East:





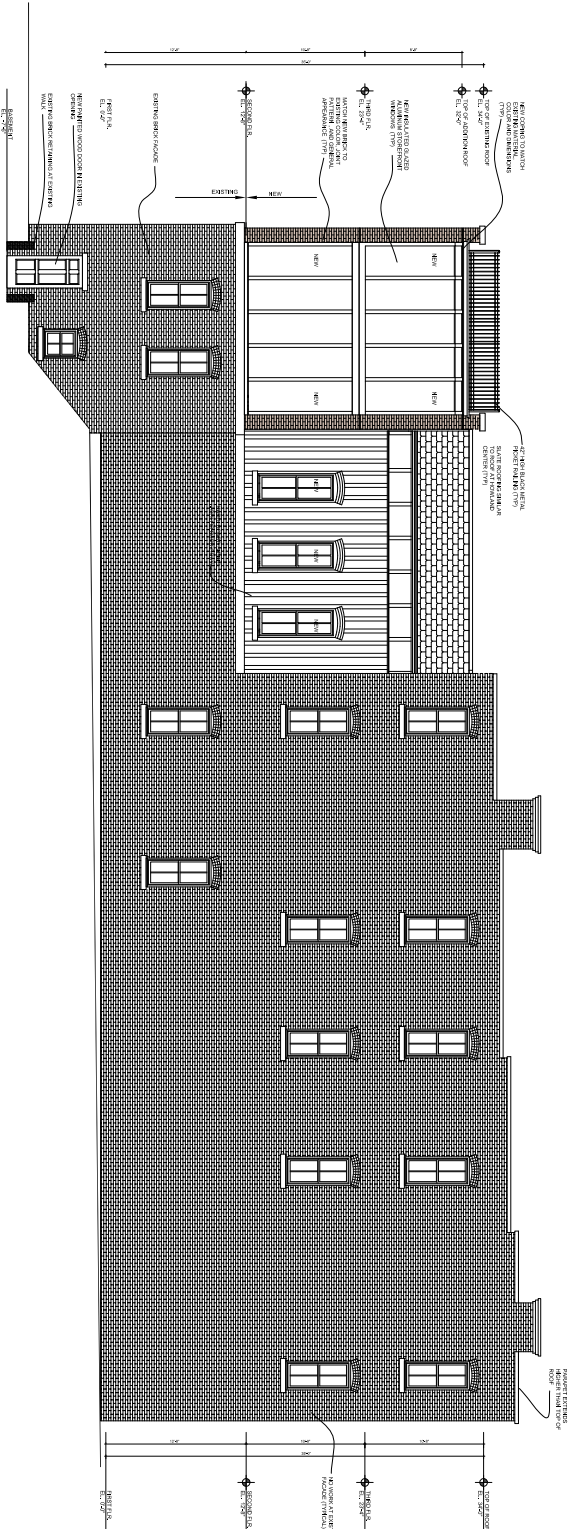






Elevation: Rear

Elevation: Front



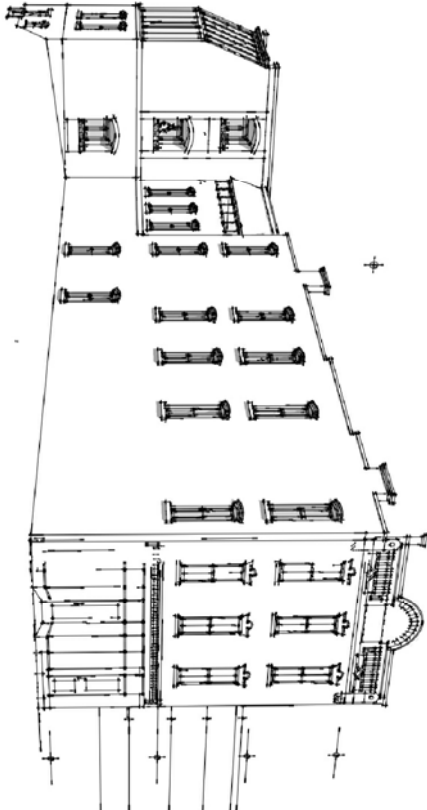
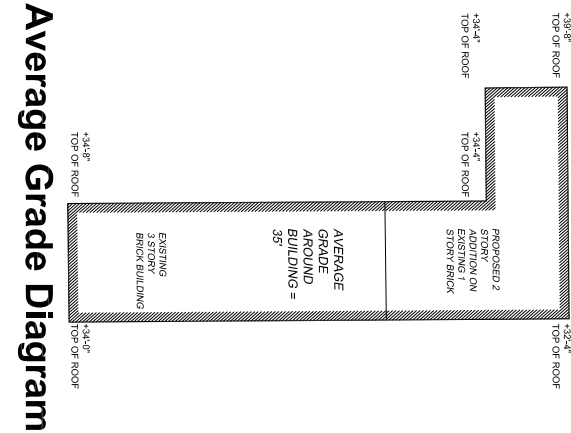
Elevation: Side

APPROVED BY RESOLUTION OF THE PLANNING BOARD OF THE CITY OF BEACON, NEW YORK, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, SUBJECT TO ALL REQUIREMENTS AND CONDITIONS OF SAID RESOLUTION, ANY CHANGE, ENLARGEMENT, MODIFICATION OR REVISION OF THIS PLAN, AS APPROVED, SHALL VOID THIS APPROVAL.

SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY \_\_\_\_\_ CHAIRMAN \_\_\_\_\_ SECRETARY

IN PRESENCE OF THE CHAIRMAN OR SECRETARY, THE ACTING CHAIRMAN OR ACTING SECRETARY, RESPECTIVELY MAY SIGN IN THEIR PLACE.

REVISIONS:			
NO.	DATE	DESCRIPTION	BY
1	04/25/17	REVISED PER PLANNING BOARD COMMENTS	AJS
2	05/30/17	REVISED PER PLANNING BOARD COMMENTS	AJS
3	08/29/17	REVISED PER OWNER	AJS



View: Main Street



View: Tioronda Avenue

# Site Plan Application

Sheet 4 of 4 - Building Elevations

**Owner:**  
**605 N. Macquesten Pkwy, LLC**  
101 Castleon Street #206  
Pleasantville, NY 10570

**Architect:**  
**Aryeh Siegel, Architect**  
84 Mason Circle  
Beacon, New York 12508

**Surveyor:**  
**Fusco Engineering & Surveying, PC**  
233 East Main Street  
Middletown, NY 10940

**475 Main Street**  
Beacon, New York  
Scale: 3/8" = 1'-0"  
March 28, 2017



445 Hamilton Avenue, 14th Floor  
White Plains, New York 10601  
T 914 761 1300  
F 914 761 5372  
cuddyfeder.com

Taylor M. Palmer  
tpalmer@cuddyfeder.com

**VIA FEDERAL EXPRESS AND E-MAIL**

October 12, 2017

Chairman John Dunne  
and Members of the Zoning Board of Appeals  
City Hall  
One Municipal Plaza  
Beacon, New York 12508

Re: 605 N. Macquesten Pkwy, LLC – Request for Adjournment from ZBA Agenda  
Premises: 475 Main Street, Beacon, New York

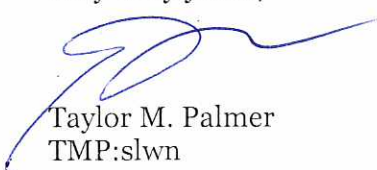
Dear Chairman Dunne and Members of the Zoning Board of Appeals:

On behalf of our client, 605 N. Macquesten Pkwy, LLC (the "Applicant"), we respectfully request that this matter be adjourned from the Zoning Board of Appeals ("ZBA") meeting Agenda, which is scheduled for October 17, 2017, and that it be placed on the ZBA's November Agenda, which is scheduled for November 21, 2017.

Following our last communication to your Board, the Applicant met with members of the Howland Cultural Center ("HCC") at the HCC on Wednesday, September 29<sup>th</sup> in order to review the proposed action.<sup>1</sup> At that time, the Applicant was advised that the HCC will reconvene its Board of Directors on Saturday, October 21, at which time we understand the HCC will consider proposed changes to the building on the Premises that could impact the variance relief requested herein.

Thank you for your consideration in this matter.

Very truly yours,



Taylor M. Palmer  
TMP:slwn

Cc: Etha Grogan, Planning Board and Zoning Board Secretary  
Timothy P. Dexter, Building Inspector  
Jennifer Gray, Esq.

---

<sup>1</sup> The owners, Jeff Mear and Julian Mear, together with the project architect Aryeh Siegel, met with The Howland Cultural Center Board of Director Members including Craig Wolf, President, Thomas de Villiers, Vice President, Suzanne Ball, Antony Tseng and Ronnie Sauers.

**City of Beacon Planning Board**  
**10/17/2017**

**Title:**

**34 Spring Valley Street**

**Subject:**

Application submitted by Sara Taylor, 34 Spring Valley Street, Tax Grid No. 30-6054-38-174676-00, R1-5 Zoning District, for relief from Section 223-17(C) for a Use Variance to allow a florist shop on the ground level of the building

**Background:**

**ATTACHMENTS:**

Description	Type
34 Spring Valley Application	Application
34 Spring Valley Back Up Info	Backup Material



# ZONING BOARD OF APPEALS

City of Beacon, New York

## APPLICATION FOR APPEAL

OWNER: Sara Leonardo Taylor

TELEPHONE: 845554 4700

APPLICANT (if not owner): \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

REPRESENTED BY: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

PROPERTY LOCATION: \_\_\_\_\_

TAX MAP DESIGNATION: SECTION 6054

ADDRESS: 34 Spring Valley St I  
Beacon NY 12508

E-MAIL: MrsFlowers4State@gmail.com

ADDRESS: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

ZONING DISTRICT: R1-5

BLOCK 38 LOT 174676

Section of Zoning Code appealed from or Interpretation desired: Relief from

Section 223-17(c) for a use variance for a use variance to allow a florist  
shop on the ground level of the building

Reason supporting request:

See attached Narrative

Supporting documents submitted herewith: Site Plan, Survey, etc. as required:

Survey, Financials, picture and narrative

Date: September 26 2017

Sara L Taylor  
Owner's Signature

### Fee Schedule

AREA VARIANCE	\$ 250
USE VARIANCE	<u>\$ 500</u>
INTERPRETATION:	\$ 250

Applicant's Signature

**\*\*escrow fees may apply if required by Chairman\*\***

# APPLICATION PROCESSING RESTRICTION LAW

## Affidavit of Property Owner

Property Owner: Sara Leonardo Taylor, Jamie Taylor, Joseph Leonardo

If owned by a corporation, partnership or organization, please list names of persons holding over 5% interest.

List all properties in the City of Beacon that you hold a 5% interest in:

34 Spring Valley St Beacon NY 12508

Applicant Address: same as above

Project Address: same as above

Project Tax Grid # 6054-38-174676

Type of Application ZBA

Please note that the property owner is the applicant. "Applicant" is defined as any individual who owns at least five percent (5%) interest in a corporation or partnership or other business.

I, Sara Leonardo Taylor, the undersigned owner of the above referenced property, hereby affirm that I have reviewed my records and verify that the following information is true.

1. No violations are pending for ANY parcel owned by me situated within the City of Beacon
2. Violations are pending on a parcel or parcels owned by me situated within the City of Beacon
3. ALL tax payments due to the City of Beacon are current
4. Tax delinquencies exist on a parcel or parcels owned by me within the City of Beacon
5. Special Assessments are outstanding on a parcel or parcels owned by me in the City of Beacon
6. ALL Special Assessments due to the City of Beacon on any parcel owned by me are current

True

False

True

False

False

True

Sara Leonardo Taylor  
Signature of Owner

Title if owner is corporation

### Office Use Only:

Applicant has violations pending for ANY parcel owned within the City of Beacon (Building Dept.)

ALL taxes are current for properties in the City of Beacon are current (Tax Dept.)

ALL Special Assessments, i.e. water, sewer, fines, etc. are current (Water Billing)

NO

xe

YES

-

Initial

o

-

g

617.20  
Appendix B  
Short Environmental Assessment Form

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information							
Name of Action or Project: <div style="font-size: 1.2em;">Mrs. Flowers - Commercial space for Florist</div>							
Project Location (describe, and attach a location map): <div style="font-size: 1.2em;">34 Spring Valley St, Beacon NY 12508</div>							
Brief Description of Proposed Action: <div style="font-size: 1.2em;">Re-instate commercial status to the ground floor that was once a bar open to the public. would now like to open and run a Florist business from this space.</div>							
Name of Applicant or Sponsor: <div style="font-size: 1.2em;">Sara Leonardo Taylor</div>		Telephone: <div style="font-size: 1.2em;">845 554 4700</div> E-Mail: <div style="font-size: 1.2em;">MrsFlowersUSA@gmail.com</div>					
Address: <div style="font-size: 1.2em;">34 Spring Valley St</div>							
City/PO: <div style="font-size: 1.2em;">Beacon</div>		State: <div style="font-size: 1.2em;">NY</div>	Zip Code: <div style="font-size: 1.2em;">12508</div>				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td style="text-align: center; vertical-align: middle;"><div style="font-size: 1.5em;">✓</div></td> <td></td> </tr> </table>	NO	YES	<div style="font-size: 1.5em;">✓</div>	
NO	YES						
<div style="font-size: 1.5em;">✓</div>							
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td></td> <td style="text-align: center; vertical-align: middle;"><div style="font-size: 1.5em;">✓</div></td> </tr> </table>	NO	YES		<div style="font-size: 1.5em;">✓</div>
NO	YES						
	<div style="font-size: 1.5em;">✓</div>						
3.a. Total acreage of the site of the proposed action?		<div style="font-size: 1.2em;">5,500</div> <del>acres</del> <div style="font-size: 1.2em;">SQ Feet</div>					
b. Total acreage to be physically disturbed?		<div style="font-size: 1.2em;">_____</div> acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<div style="font-size: 1.2em;">5,500</div> <del>acres</del> <div style="font-size: 1.2em;">SQ Feet</div>					
4. Check all land uses that occur on, adjoining and near the proposed action. <div style="display: flex; flex-wrap: wrap; padding: 5px;"> <div style="width: 50%;"><input type="checkbox"/> Urban</div> <div style="width: 50%;"><input type="checkbox"/> Rural (non-agriculture)</div> <div style="width: 50%;"><input type="checkbox"/> Industrial</div> <div style="width: 50%;"><input type="checkbox"/> Commercial</div> <div style="width: 50%;"><input checked="" type="checkbox"/> Residential (suburban)</div> <div style="width: 50%;"><input type="checkbox"/> Forest</div> <div style="width: 50%;"><input type="checkbox"/> Agriculture</div> <div style="width: 50%;"><input type="checkbox"/> Aquatic</div> <div style="width: 50%;"><input checked="" type="checkbox"/> Other (specify): <div style="font-size: 1.2em;">Church land</div></div> <div style="width: 50%;"><input type="checkbox"/> Parkland</div> </div>							



5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	✓		
b. Consistent with the adopted comprehensive plan?		✓	
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
		✓	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	✓		
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	✓		
b. Are public transportation service(s) available at or near the site of the proposed action?			✓
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?			✓
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
		✓	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
		✓	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
		✓	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	✓		
b. Is the proposed action located in an archeological sensitive area?			✓
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	✓		
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____			✓
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	✓		
16. Is the project site located in the 100 year flood plain?	NO	YES	
	✓		
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ <input type="checkbox"/> NO <input type="checkbox"/> YES	NO	YES	
	✓		

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
	✓	
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
	✓	
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
	✓	
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b> Applicant/sponsor name: <u>Sara Leonardo Taylor</u> Date: <u>September 26 2017</u> Signature: <u>[Signature]</u>		

**Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2.** Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing:		
a. public / private water supplies?		
b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from Responsible Officer)



RE: 34 Spring Valley Street, Beacon, NY 12508

Beacon Board,

I want to thank you for taking the time to read this letter and review my application. I want to give you some background information.

My family has lived in Beacon for over eighty years. After living in England for twelve years with my British husband and more recently our son, we decided to move back to the USA. It only seemed natural that we would move to Beacon to be close to my family.

The re-vamp of Beacon has been a pleasure to watch over the past few years. I am excited to now be a part of it! When we viewed the Valley Inn a few years ago I fell in love immediately. At the time, we were not yet ready to move. I kept an eye and was selfishly very happy when it hadn't sold! I contacted Mr. Lockwood, the previous owner, in February of this year and asked him if he would still be interested in selling.

Not only will this be where myself and my family lives and enjoys the Beacon community but also where I can hopefully run a small florist business. I am applying for and asking the board to re-instate the commercial status of the ground floor (which was lost after many years of abandonment and used as a Pub before that) and so that I may conduct a florist business from there. I was the owner of a successful florist in Bournemouth, England for nearly six years. We sold the business before moving to the USA.

The building is spectacularly built but only a shell. We have moved onto the property and are making several updates, cleaning, painting and lots of hard labor! The history of the bar which I have been told was installed by the first mayor of Beacon and used during prohibition adds priceless charm. I fell in love with the building and as such I do not want to change or take away from its original charm. But this also comes at a cost and every update we complete is thought through thoroughly, for example, new windows to be installed with internal wide wood trim in keeping with the buildings original architect. The current leading quote for this is \$52,000.

Having the florist business on the ground floor means we are making use of a space that has been abandoned for several years and where we have the potential to make our home a financially sustainable one. It means we will be able to live there as well as begin to recoup back some of the significant amount of money we have poured into the renewal of Spring Valley to its former glory. And to give you an idea on the costs I have enclosed a breakdown as well as some evidence.

Although we are asking for a commercial space in a residential area, we believe in the importance of being able to sustain the premises to a high standard. We also hope the utilize the previously abandoned space, with the support from our community The business will also be at our home (we will be on site) and treated as a home so we do not foresee that it will interrupt or disturb the neighbors.

Thank you for your time and consideration in this matter.

Sincerely and Best Wishes,

Sara Leonardo Taylor

RE: 34 Spring Valley Street, Beacon, NY 12508

Financials on Spring Valley Street for your consideration.

Purchasing Property Costs:

\$225,000 mortgage

\$84,374.83 out of pocket

Break Down:

\$75,000 paid deposit

\$3,577.99 for a year of insurance

(higher than usual due to the brick build and therefore re-build cost)

\$4932.84 Title Abstract Search

\$225,000 mortgage taken out

\*\$864 in fees and appraisal requested by bank for mortgage

Necessary Works to be Carried Out \$73,500

\$6500 black top parking lot

\$52,000 to replace the windows

Updating units: \$15,000 (\$5000 each minimum )

Each Apartment Break down

\$1200 appliances

\$250 paint

\$1200 sanding and finishing hardwood floors

\$1200 new bath, toilet and sinks

\$150 miscellaneous

We will end up spending around \$100,000 on top of purchase price and closing costs.

Rental Income Information:

Unit One we will occupy

Unit 2 and Unit 3 we should achieve \$950 and \$850 for rent respectively per the banks appraisal (Enclosed Copy).

Potential rental income of \$1800 per month or \$21,600 per year once works are complete.

We are hoping to rent January 1st - will have 5+ months of empty units

Our mortgage, tax and insurance payment is \$2,282.54 per month or \$27,390.45. We need to have the ground floor as a business space to be able to make back some of the capital (\$175,000) that we will have loving put in to restore this beautiful building and maintain it the way it should be.

Evidence Enclosed:

Bank Assessment from M and T

Mortgage Statement

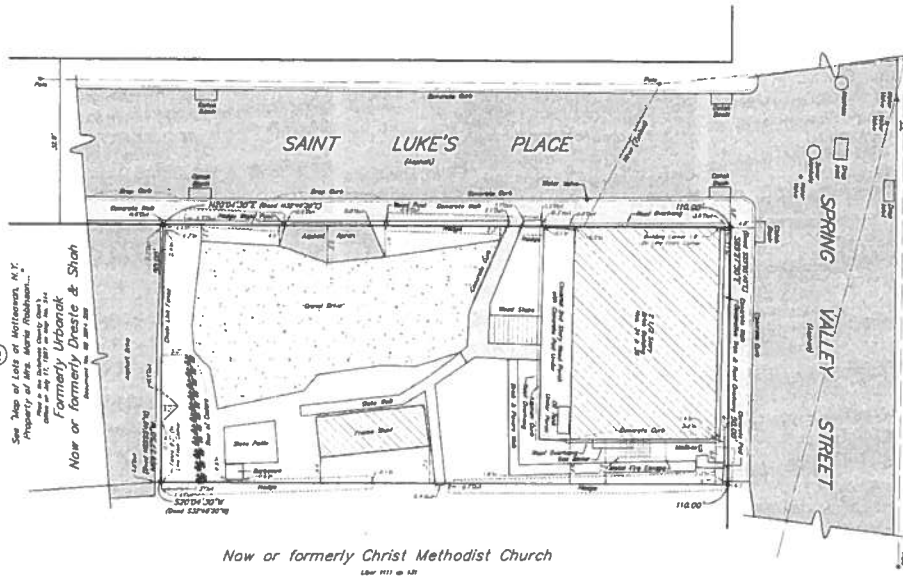
(Receipts can also be provided if necessary)



# **Valley Inn**

34 Spring Valley Street, Beacon, NY 12508





Area = 5,500 Sq. Ft.

This map was prepared for the exclusive use of and is certified only for:  
JAMIE TAYLOR  
SARA LEONARDO TAYLOR  
JOSEPH LEONARDO  
STEWART TITLE INSURANCE COMPANY  
but only for use in connection with their  
New York State Certificate No. 0-0811-00373323  
M&T MORTGAGE CORPORATION  
its successors and/or assigns, but only  
as their interest may appear in a duly  
recorded mortgage to it by Jamie Taylor, Sara  
Leonardo Taylor and Joseph Leonardo.



- Notes:
1. COPYRIGHT "2017" by BADEY & WATSON, Surveyors & Engineers, P.C. All Rights Reserved. Unauthorized duplication is a violation of applicable laws.
  2. Unpublished alteration or addition to a document prepared by a licensed land surveyor is a violation of Section 7208, Subsection 2 of the New York State Education Law.
  3. All certifications are valid for this map and copies thereof only if sold map or maples here; the undesignated seal of the surveyor whose signature appears herein.
  4. If underground improvements, easements, or encroachments exist and are neither visible during normal field survey operations nor described in statements provided to these surveyors, they may not be shown on this map.
  5. This property may be affected by instruments which have not been provided to these surveyors. Users of this map should verify title with their attorney or a qualified title searcher.
  6. This survey is of property described in the Dutchess County Clerk's Liber 1850 of deeds of page 543 (reference to last volume).

PRINTED

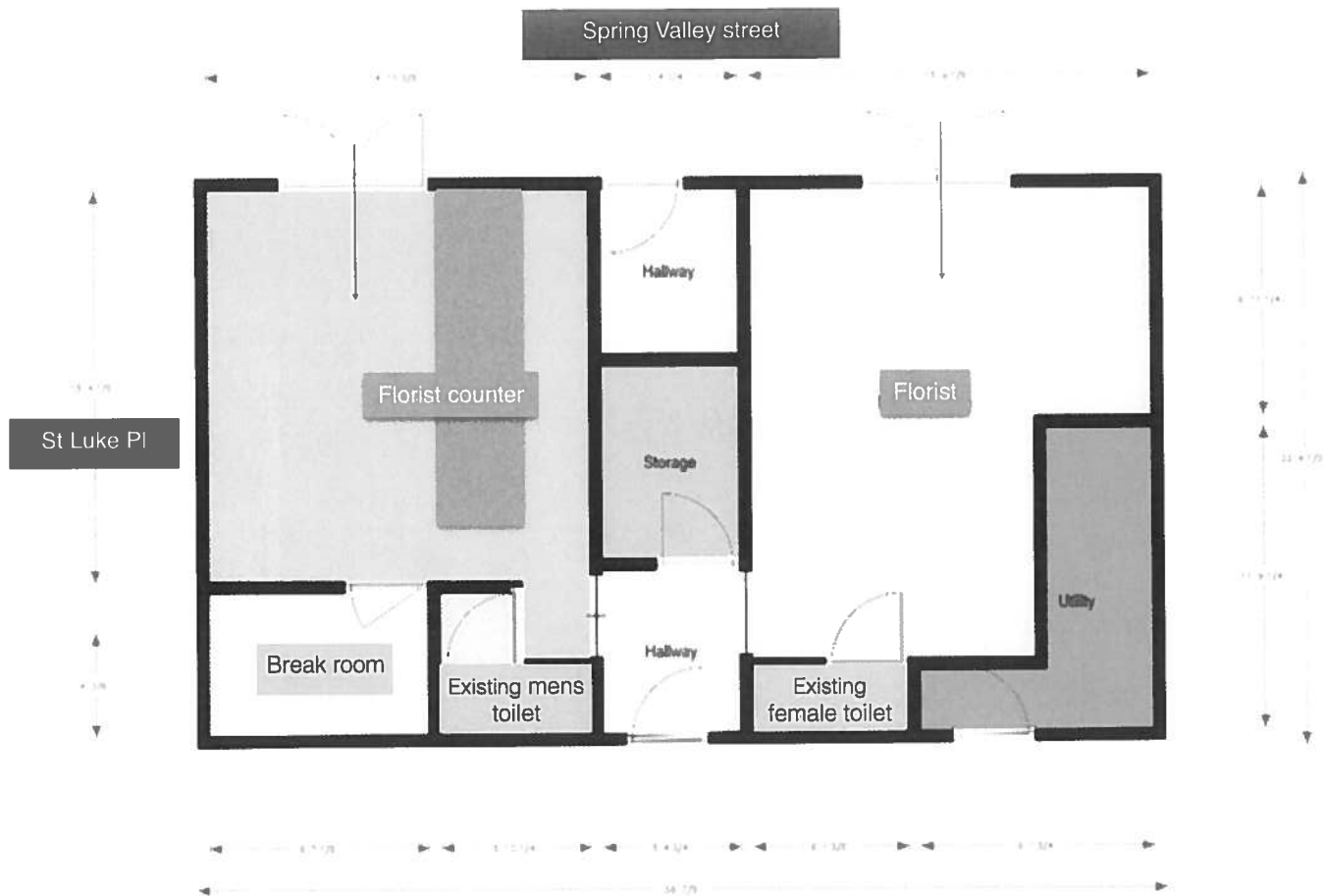
BADEY & WATSON  
Surveyors & Engineers, P.C.

SURVEY OF PROPERTY  
PREPARED FOR  
JAMIE TAYLOR,  
SARA LEONARDO TAYLOR  
& JOSEPH LEONARDO  
STATE IN THE  
CITY OF BEACON  
DUTCHESS COUNTY  
NEW YORK  
SCALE 1 in. = 10 ft. AUGUST 10, 2017

We hereby certify that the survey shown herein was  
completed by us on August 10, 2017 and that this map was  
completed on August 14, 2017 and that this survey has  
been prepared in accordance with the existing Code of  
Practice for Land Surveys adopted by The New York State  
Association of Professional Land Surveyors, Inc.

BADEY & WATSON  
Surveyors & Engineers, P.C.  
by *[Signature]*  
NEW YORK STATE LICENSED LAND SURVEYOR  
LICENSE No. 49780





**City of Beacon Planning Board**  
**10/17/2017**

**Title:**

**13 East Street**

**Subject:**

Application submitted by Willy Kingler Bercy, 13 East Street, Tax Grid No. 30-6054-39-255696-00, R1-5 Zoning District, for relief from Section 223-17(C) to allow construction of a rear addition with 4.8 ft. side yard setback (*10 ft. required*)

**Background:**

**ATTACHMENTS:**

Description	Type
13 East Street Application	Application
13 East Street Survey	Map



# ZONING BOARD OF APPEALS

City of Beacon, New York

## APPLICATION FOR APPEAL

OWNER: Willy Kingler BERCU ADDRESS: 13 EAST STREET

TELEPHONE: 347-414 4170 E-MAIL: Kingler@me.com

APPLICANT (if not owner): \_\_\_\_\_ ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

REPRESENTED BY: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

PROPERTY LOCATION: 13 EAST STREET ZONING DISTRICT: R1-5

TAX MAP DESIGNATION: SECTION 6054 BLOCK 39 LOT 255696

Section of Zoning Code appealed from or Interpretation desired: Relief from  
Section 223-17(c) to allow construction of a rear addition with a 4.8 ft.  
side yard setback (10 ft. required)

Reason supporting request:

TO increase the square footage of the existing structure  
because I'm changing the property from a 2 unit to a single family home

Supporting documents submitted herewith: Site Plan, Survey, etc. as required:

Survey

Date: 9/20/2017

X [Signature]  
Owner's Signature

### Fee Schedule

AREA VARIANCE	<u>\$ 250</u>
USE VARIANCE	\$ 500
INTERPRETATION:	\$ 250

Applicant's Signature

**\*\*escrow fees may apply if required by Chairman\*\***

# APPLICATION PROCESSING RESTRICTION LAW

## Affidavit of Property Owner

Property Owner: Willy Kingler Bercy

If owned by a corporation, partnership or organization, please list names of persons holding over 5% interest.

Willy Kingler Bercy

List all properties in the City of Beacon that you hold a 5% interest in:

Applicant Address: 13 EAST STREET

Project Address: 13 EAST STREET BEACON, NY 12508

Project Tax Grid # 6054-39-255696

Type of Application ZBA

Please note that the property owner is the applicant. "Applicant" is defined as any individual who owns at least five percent (5%) interest in a corporation or partnership or other business.

I, Willy Kingler Bercy, the undersigned owner of the above referenced property, hereby affirm that I have reviewed my records and verify that the following information is true.

1. No violations are pending for ANY parcel owned by me situated within the City of Beacon ✓
2. Violations are pending on a parcel or parcels owned by me situated within the City of Beacon
3. ALL tax payments due to the City of Beacon are current ✓
4. Tax delinquencies exist on a parcel or parcels owned by me within the City of Beacon
5. Special Assessments are outstanding on a parcel or parcels owned by me in the City of Beacon
6. ALL Special Assessments due to the City of Beacon on any parcel owned by me are current ✓

[Signature]  
Signature of Owner

Title if owner is corporation

### Office Use Only:

Applicant has violations pending for ANY parcel owned within the City of Beacon (Building Dept.)

ALL taxes are current for properties in the City of Beacon are current (Tax Dept.)

ALL Special Assessments, i.e. water, sewer, fines, etc. are current (Water Billing)

NO YES Initial

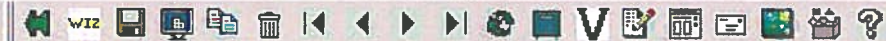
X      

   ✓ W

over 5% interest





6054-39-255696-0000

130200 Beacon

Active

R/S: 1

School: Beacon City SC

Bercy Willy Kingler

Roll Year: 2018 Next Yr

1 Family Res

Land AV: 36,500

13 East St

Land Size: 0.12 acres

Homestead

Total AV: 192,800

Parcel 6054-39-255696-0000

- History
- Assessment
- Description
  - Notes
  - Owner(s)
  - Images
  - Gis
- Site (1) Res
  - Land(s)
  - Bldg
  - Imprvmt(s)
  - Valuation
- Sale03/30/17
  - Site (1) Res
    - Land(s)
    - Bldg
    - Imprvmt(s)
    - Valuation
- Sale07/26/10
- Sale11/25/08

Prop Class:	210 1 Family Res	Desc 1:	12 AC
Ownership Code:		Desc 2:	
Roll Section:	1 Taxable	Desc 3:	
School Code:	130200 Beacon City SD	Desc Print Code:	D = No Desc on Roll & Bill
Cons. School:		Land Com Code:	
Easement Code:		Land Com Year:	
Allocation Factor:	.0000	Ag District:	<input type="checkbox"/> Ag Dist No:
Appraisal No:		Arrears:	<input type="checkbox"/> SSI Recipient:
Tax Code:	H Homestead	Date Last Phy Insp:	00/00/0000

Run RPS440 Edits: ☒ Major Type: A

Total 8 Roll Years:				
Roll Yr	Prop Class	Roll Section	Owner Code	Tax Code
2018	1 Family Res	Taxable		Homestead
2017	1 Family Res	Taxable		Homestead



617.20  
Appendix B  
Short Environmental Assessment Form

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
13 East Street RENO			
Name of Action or Project:			
13 East street Addition			
Project Location (describe, and attach a location map):			
13 East street Beacon, NY 12508			
Brief Description of Proposed Action:			
I am requesting the approval of variance to 13 East For the proposed addition to the properties current structure. the proposed variance is to allow a setback of 4' 8" <del>from</del> From the property line for the new proposed Addition as per the survey attached.			
Name of Applicant or Sponsor:		Telephone: 347-414 4170	
Willy Kingler Bercy		E-Mail: Kingler Bercy	
Address:			
13 East. Street B			
City/PO:		State:	Zip Code:
Beacon		NY	12508
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?			NO YES
If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			✓
2. Does the proposed action require a permit, approval or funding from any other governmental Agency?			NO YES
If Yes, list agency(s) name and permit or approval:			✓
3. a. Total acreage of the site of the proposed action?		0.121 acres	
b. Total acreage to be physically disturbed?		0.121 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0.121 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
b. Consistent with the adopted comprehensive plan?		✓	
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
b. Are public transportation service(s) available at or near the site of the proposed action?	✓		
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	✓		
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	✓
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	✓
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	✓
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	✓
b. Is the proposed action located in an archeological sensitive area?	✓		
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	✓
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	✓		
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	✓
16. Is the project site located in the 100 year flood plain?	NO	YES	✓
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	NO	YES	✓

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES

**I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE**

Applicant/sponsor name: Will J. Kungler Date: 9/26/2017  
 Signature: [Signature]

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		



	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Date

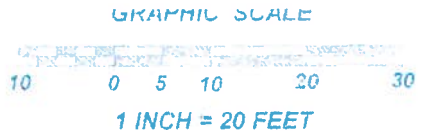
\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

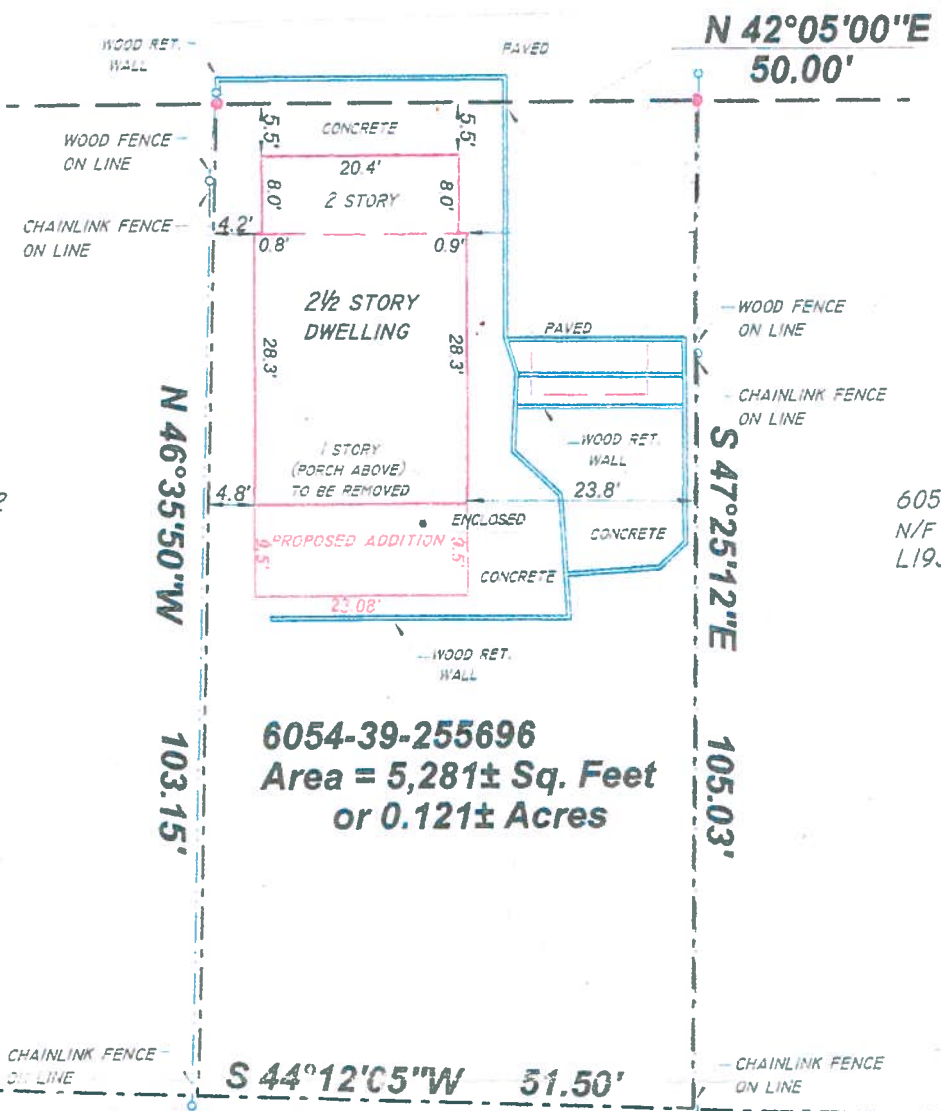
\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from Responsible Officer)

RECORD NORTH  
Document No. 02-2017-2821



EAST STREET (40' r.o.w.)



6054-39-252692  
N/F PERATIKOS  
02 2002 3200

6054-39-257700  
N/F PERATIKOS  
L1934 P546

6054-39-255696  
Area = 5,281± Sq. Feet  
or 0.121± Acres

6054-39-266685  
N/F DORREL  
02 2006 769

MAP LEGEND:

- CAPPED IRON ROD SET
- PROPERTY LINE
- ROAD BOUNDARY (RIGHT-OF-WAY)
- N/F NOW OR FORMERLY (REPUTED OWNER)
- 02-2017-2821 DOCUMENT NO. (D.C.C.O.)
- L1934 P546 LIBER (BOOK) AND PAGE (D.G.C.O.)
- 6054-39-255696 DUTCHESS CO. TAX MAP PARCEL NO.

MAP NOTES:

1. UNDERGROUND IMPROVEMENTS OR ENCROACHMENTS, IF ANY, ARE NOT SHOWN HEREON.
2. SUBJECT TO ALL RIGHTS, COVENANTS, RESTRICTIONS, EASEMENTS AND RIGHTS-OF-WAY OF RECORD.
3. SUBJECT DEED: CHRISTINE DORSEY TO WILLY KINGLER BERCY; RECORDED IN THE D.C.C.O. AS DOCUMENT NUMBER 02-2017-2821 ON APRIL 21, 2017.
4. PARCEL GRID IDENTIFICATION #: 130200-6054-39-255696-0000; MUNICIPALITY: BEACON
5. NO ABSTRACT OF TITLE WAS PROVIDED AT TIME OF SURVEY - THIS MAP AND SURVEY ARE SUBJECT TO ANY STATE OF FACTS THAT AN UP-TO-DATE ABSTRACT OF TITLE MIGHT DISCLOSE.

Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of Section 7209 (2), of the New York State Education Law. Only copies from the original of this survey marked with the land surveyor's signature and an original embossed or red ink seal shall be considered valid true copies. This survey was prepared for the parties and purpose indicated hereon. Any extension of the use beyond the parties or purpose indicated is expressly forbidden without written release or permission of James A. Sheridan, L.S. No. 49721.

I hereby certify to

WILLY KINGLER BERCY

that this survey has been prepared in accordance with the existing "CODE OF PRACTICE FOR LAND SURVEYS" adopted by the New York State Association of Professional Land Surveyors.

James A. Sheridan, L.S.  
N.Y.S. License No. 49721

REVISED 9/21/2017: ADDED PROPOSED ADDITION

Survey Of Property Prepared For:

**WILLY KINGLER BERCY**

Situate At:

**13 East Street**

**City of Beacon** **County of Dutchess**

**State of New York**

Scale: 1" = 20' Survey Completed: June 19, 2017 Map Date: June 19, 2017

**BOUNDARY, MORTGAGE AND SUBDIVISION SURVEYS**

**SHERIDAN LAND SURVEYORS**

50 CLOVER HILL DRIVE (845) 849 - 2217  
LAGRANGE, N.Y. 12603 slsurvey50@gmail.com

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**City of Beacon Planning Board**  
**10/17/2017**

**Title:**

**22 Edgewater Place**

**Subject:**

**Item postponed pending SEQRA action**

Continue review of application submitted by Scenic Beacon Developments, LLC, 22 Edgewater Place, Tax Grid No.'s 30-5954-25-581985, 574979, & 566983-00; and 30-5955-19-590022-00, RD-1.7 Zoning District, seeking relief from Section 223-17(C) to construct a new residential development as follows:

- 1) Allow buildings to have 5 stories (*4.5 maximum permitted*)
- 2) Allow buildings to exceed 36 units per building
- 3) Allow less than 30 ft. between buildings

**Background:**

**ATTACHMENTS:**

Description	Type
Edgewater Application	Application
Edgewater Site Plan & Building Renderings	Plans
Edgewater Site Plan	Plans



# ZONING BOARD OF APPEALS

City of Beacon, New York

## Application for Appeal

APPLICANT: Scenic Beacon Developments, LLC ADDRESS: 11 Creek Drive Suite 102A  
Beacon, NY 12508 TELEPHONE: (845) 440-6520

REPRESENTED BY: Aryeh Siegel Architect ADDRESS: 84 Mason Circle  
Beacon, NY 12508 TELEPHONE: 845-838-2490

LOCATION: 22 Edgewater Place ZONING DISTRICT: RD-1.7  
5954-25-581985, 5955-19-590022, 5954-25-566983 and 5954-25-574979

TAX MAP: SECTION \_\_\_\_\_ BLOCK \_\_\_\_\_ LOT \_\_\_\_\_

DECISION APPEALED FROM, OR INTERPRETATION DESIRED:

- 1) Allow 5 stories where 4 1/2 stories are permitted. 2) Allow more than 36 units per building where  
a maximum of 36 is permitted. 3) Allow less than 30' between buildings

REASON SUPPORTING REQUEST:

- 1) The additional height allows us to reduce the building footprint  
2) Allowing more than 36 units per building allows us to reduce the building footprint  
3) The proposed distance between buildings is generally 25' where 30' is required. Minor variation

SUPPORTING DOCUMENTS SUBMITTED HERewith: (Site Plan, Survey, etc. as required)

Site Plan, Elevation Renderings, Floor Plans

2-28-2017

Date

Fee: \$100 with application

  
Owner's Signature

  
Applicant's Signature

# APPLICATION PROCESSING RESTRICTION LAW

## Affidavit of Property Owner



Property Owner: Scenic Beacon Developments, LLC

If owned by a corporation, partnership or organization please list names of persons holding over 5% interest.  
Rodney Weber, Stephane Bibeau, Richard Schoniger

List all properties in the City of Beacon that you hold a 5% interest in:

555 South Ave

555 South Ave

Applicant Address: 11 Creek Drive Suite 102A Beacon NY 12508

Project Address: 22 Edgewater Place

Project Tax Grid # 5954-25-581985, 5955-19-590022, 5954-25-566983, 5954-25-574979

Type of Application Application for Appeal

Please note that the property owner is the applicant. "Applicant" is defined as any individual who owns at least five percent (5%) interest in a corporation or partnership or other business.

I, Rodney Weber, the undersigned owner of the above referenced property, hereby affirm that I have reviewed my records and verify that the following information is true.

1. No violations are pending for ANY parcel owned by me situated within the City of Beacon ☒
2. Violations are pending on a parcel or parcels owned by me situated within the City of Beacon ☐
3. ALL tax payments due to the City of Beacon are current ☒
4. Tax delinquencies exist on a parcel or parcels owned by me within the City of Beacon ☐
5. Special Assessments are outstanding on a parcel or parcels owned by me in the City of Beacon ☐
6. ALL Special Assessments due to the City of Beacon on any parcel owned by me are current ☒

Signature of Owner

MANAGING MEMBER

Title if owner is corporation

### Office Use Only:

Applicant has violations pending for ANY parcel owned within the City of Beacon (Building Dept.)

NO

☒

YES

☐

Initial

RM

ALL taxes are current for properties in the City of Beacon are current (Tax Dept.)

☐

☒

☐

ALL Special Assessments, i.e. water, sewer, fines, etc. are current (Water Billing)

☐

☒

☐

**Full Environmental Assessment Form**  
**Part 1 - Project and Setting**

**Instructions for Completing Part 1**

**Part 1 is to be completed by the applicant or project sponsor.** Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1 is accurate and complete.

**A. Project and Sponsor Information.**

Name of Action or Project: Edgewater Apartments		
Project Location (describe, and attach a general location map): 22 Edgewater Pl Beacon, NY 12508		
Brief Description of Proposed Action (include purpose or need): The proposed action is to construct two residential apartment buildings with a total of 307 single-family dwelling units. This will require the demolition of an existing one family dwelling and an existing residential apartment building. The 307 new units will be a mix of studio, one-bedroom, two-bedroom and three-bedroom apartments for a total of 409 bedrooms.		
Name of Applicant/Sponsor: Scenic Beacon Developments, LLC		Telephone: E-Mail:
Address: 25 East Main Street		
City/PO: Beacon	State: NY	Zip Code: 12508
Project Contact (if not same as sponsor; give name and title/role): Rodney Weber		Telephone: E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):		Telephone: E-Mail:
Address:		
City/PO:	State:	Zip Code:



**B. Government Approvals****B. Government Approvals, Funding, or Sponsorship.** ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, <input type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Planning Board or Commission	Planning Board - Site Plan	12/27/2016
c. City Council, Town or <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Village Zoning Board of Appeals	Zoning Board of Appeals - Parking Variance	
d. Other local agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DCDOH - Water & Sewer	3/2017
f. Regional agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYDEC - SPDES GP-0-015-002	3/2017
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**C. Planning and Zoning****C.1. Planning and zoning actions.**

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐ Yes ☒ No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

**C.2. Adopted land use plans.**

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☒ Yes ☐ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☐ Yes ☒ No

If Yes, identify the plan(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☒ No

If Yes, identify the plan(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C.3. Zoning**

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☒ Yes ☐ No  
If Yes, what is the zoning classification(s) including any applicable overlay district?

b. Is the use permitted or allowed by a special or conditional use permit? ☒ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☒ No

If Yes,

i. What is the proposed new zoning for the site? \_\_\_\_\_

**C.4. Existing community services.**

a. In what school district is the project site located? City of Beacon

b. What police or other public protection forces serve the project site?

City of Beacon

c. Which fire protection and emergency medical services serve the project site?

City of Beacon

d. What parks serve the project site?

Pete & Toshi Seeger Riverfront Park; Long Dock

**D. Project Details****D.1. Proposed and Potential Development**

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Residential

b. a. Total acreage of the site of the proposed action? 12 acres

b. Total acreage to be physically disturbed? 9.1 acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 12 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☒ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % \_\_\_\_\_ Units: \_\_\_\_\_

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☒ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No

iii. Number of lots proposed? \_\_\_\_\_

iv. Minimum and maximum proposed lot sizes? Minimum \_\_\_\_\_ Maximum \_\_\_\_\_

e. Will proposed action be constructed in multiple phases? ☒ Yes ☐ No

i. If No, anticipated period of construction: 12 months

ii. If Yes:

- Total number of phases anticipated 2
- Anticipated commencement date of phase 1 (including demolition) 9 month 2017 year
- Anticipated completion date of final phase 9 month 2018 year

• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: \_\_\_\_\_

All phases shall not exceed 5 acres of disturbance.

f. Does the project include new residential uses? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	0			
At completion of all phases	307			

g. Does the proposed action include new non-residential construction (including expansions)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes,	
i. Total number of structures _____ ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes,	
i. Purpose of the impoundment: _____ ii. If a water impoundment, the principal source of the water: <input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify: _____ iii. If other than water, identify the type of impounded/contained liquids and their source. _____ iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____	

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes:	
i. What is the purpose of the excavation or dredging? _____ ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site? • Volume (specify tons or cubic yards): _____ • Over what duration of time? _____ iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____ _____ iv. Will there be onsite dewatering or processing of excavated materials? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If yes, describe. _____ _____ v. What is the total area to be dredged or excavated? _____ acres vi. What is the maximum area to be worked at any one time? _____ acres vii. What would be the maximum depth of excavation or dredging? _____ feet viii. Will the excavation require blasting? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> ix. Summarize site reclamation goals and plan: _____ _____ _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____ _____	



ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will proposed action cause or result in disturbance to bottom sediments?

☐ Yes ☐ No

If Yes, describe:

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation?

☐ Yes ☐ No

If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

v. Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

c. Will the proposed action use, or create a new demand for water?

☒ Yes ☐ No

If Yes:

i. Total anticipated water usage/demand per day: \_\_\_\_\_ 44,990 gallons/day

ii. Will the proposed action obtain water from an existing public water supply?

☒ Yes ☐ No

If Yes:

- Name of district or service area: City of Beacon
- Does the existing public water supply have capacity to serve the proposal? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No
- Do existing lines serve the project site? ☒ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project?

☐ Yes ☒ No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_
- Source(s) of supply for the district: \_\_\_\_\_

iv. Is a new water supply district or service area proposed to be formed to serve the project site?

☐ Yes ☒ No

If, Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

v. If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_

vi. If water supply will be from wells (public or private), maximum pumping capacity: \_\_\_\_\_ gallons/minute.

d. Will the proposed action generate liquid wastes?

☒ Yes ☐ No

If Yes:

i. Total anticipated liquid waste generation per day: \_\_\_\_\_ 44,990 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_

Sanitary Wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities?

☒ Yes ☐ No

If Yes:

- Name of wastewater treatment plant to be used: City of Beacon
- Name of district: City of Beacon
- Does the existing wastewater treatment plant have capacity to serve the project? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No

<ul style="list-style-type: none"> <li>• Do existing sewer lines serve the project site? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></li> <li>• Will line extension within an existing district be necessary to serve the project? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></li> </ul> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Describe extensions or capacity expansions proposed to serve this project: _____</li> </ul>	
<p>iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Applicant/sponsor for new district: _____</li> <li>• Date application submitted or anticipated: _____</li> <li>• What is the receiving water for the wastewater discharge? _____</li> </ul>	
<p>v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans):</p> <p>_____</p> <p>_____</p>	
<p>vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____</p> <p>_____</p> <p>_____</p>	
<p>e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. How much impervious surface will the project create in relation to total size of project parcel? <span style="float: right; font-size: 1.5em;">4.65</span></p> <p style="margin-left: 40px;">_____ Square feet or <u>5.6</u> acres (impervious surface)</p> <p style="margin-left: 40px;">_____ Square feet or <u>12</u> acres (parcel size)</p> <p>ii. Describe types of new point sources. _____</p> <p>_____</p> <p>iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?</p> <p style="margin-left: 20px;">The storm water runoff will be directed to four on site infiltration basins, and then conveyed offsite, or to the City of Beacon closed storm water system.</p> <p style="margin-left: 20px;">• If to surface waters, identify receiving water bodies or wetlands: _____</p> <p style="margin-left: 20px;">_____</p> <p style="margin-left: 20px;">• Will stormwater runoff flow to adjacent properties? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes, identify:</p> <p>i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)</p> <p>_____</p> <p>ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)</p> <p>_____</p> <p>iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)</p> <p>_____</p>	
<p>g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>ii. In addition to emissions as calculated in the application, the project will generate:</p> <ul style="list-style-type: none"> <li>• _____ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)</li> <li>• _____ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)</li> <li>• _____ Tons/year (short tons) of Perfluorocarbons (PFCs)</li> <li>• _____ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)</li> <li>• _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)</li> <li>• _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)</li> </ul>	

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐ Yes ☐ No

If Yes:

i. Estimate methane generation in tons/year (metric): \_\_\_\_\_

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): \_\_\_\_\_

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i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐ Yes ☒ No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): \_\_\_\_\_

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j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐ Yes ☒ No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☒ Evening ☐ Weekend  
☐ Randomly between hours of \_\_\_\_\_ to \_\_\_\_\_.

ii. For commercial activities only, projected number of semi-trailer truck trips/day: \_\_\_\_\_

iii. Parking spaces: Existing 13 Proposed 320 308 Net increase/decrease 207 295

iv. Does the proposed action include any shared use parking? ☐ Yes ☐ No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: \_\_\_\_\_

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vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☒ Yes ☐ No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☒ Yes ☐ No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☒ Yes ☐ No

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k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐ Yes ☐ No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: \_\_\_\_\_

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):  
Central Hudson

iii. Will the proposed action require a new, or an upgrade to, an existing substation? ☐ Yes ☐ No

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l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7AM - 7PM
- Saturday: 8AM - 5PM
- Sunday: 9AM - 5PM
- Holidays: 9AM - 5PM

ii. During Operations:

- Monday - Friday: N/A
- Saturday: N/A
- Sunday: N/A
- Holidays: N/A



s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_

ii. Anticipated rate of disposal/processing:

- \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or
- \_\_\_\_\_ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: \_\_\_\_\_ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_

ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_

iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: \_\_\_\_\_

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: \_\_\_\_\_

#### E. Site and Setting of Proposed Action

**E.1. Land uses on and surrounding the project site**

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☒ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)

☐ Forest ☐ Agriculture ☒ Aquatic ☒ Other (specify): Metro North Train Station

ii. If mix of uses, generally describe: \_\_\_\_\_

b. Land uses and covertypes on the project site.

Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	1.2	4.8	(+) 3.5
• Forested	5.9	2.5	(-) 3.4
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	4.6	0	(-) 2.8
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Grass and Landscaped areas</u>	0.3	4.7	(+) 4.7

<p>c. Is the project site presently used by members of the community for public recreation?  i. If Yes: explain: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?  If Yes,  i. Identify Facilities: _____  _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>e. Does the project site contain an existing dam?  If Yes:  i. Dimensions of the dam and impoundment:  • Dam height: _____ feet  • Dam length: _____ feet  • Surface area: _____ acres  • Volume impounded: _____ gallons OR acre-feet  ii. Dam's existing hazard classification: _____  iii. Provide date and summarize results of last inspection: _____  _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?  If Yes:  i. Has the facility been formally closed?  • If yes, cite sources/documentation: _____  ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____  _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>iii. Describe any development constraints due to the prior solid waste activities: _____  _____</p>	
<p>g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?  If Yes:  i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____  _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?  If Yes:  i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:  <input type="checkbox"/> Yes – Spills Incidents database  <input type="checkbox"/> Yes – Environmental Site Remediation database  <input type="checkbox"/> Neither database  Provide DEC ID number(s): _____  Provide DEC ID number(s): _____  ii. If site has been subject of RCRA corrective activities, describe control measures: _____  _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database?  If yes, provide DEC ID number(s): V00293 , C314112 , V00096 , 314069 , 546031  iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____  V00293-Closed. Development restrictions: C314112 - requires additional cleanup: V00096 combined with C314112: 314069 - Closed, redeveloped.  546031- Ongoing. Hudson River PCB's</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<p>m. Identify the predominant wildlife species that occupy or use the project site: _____</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border-bottom: 1px solid black;">White Tail Deer</td> <td style="width: 33%; border-bottom: 1px solid black;">Red Fox</td> <td style="width: 33%; border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;">Grey Squirrel</td> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black;"></td> </tr> </table>		White Tail Deer	Red Fox		Grey Squirrel		
White Tail Deer	Red Fox						
Grey Squirrel							
<p>n. Does the project site contain a designated significant natural community? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p>ii. Source(s) of description or evaluation: _____</p> <p>iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> <li>• Currently: _____ acres</li> <li>• Following completion of project as proposed: _____ acres</li> <li>• Gain or loss (indicate + or -): _____ acres</li> </ul>							
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>Atlantic Sturgeon; Bald Eagle</p>							
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p>							
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p>							
<p><b>E.3. Designated Public Resources On or Near Project Site</b></p>							
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes, provide county plus district name/number: _____</p>							
<p>b. Are agricultural lands consisting of highly productive soils present? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>i. If Yes: acreage(s) on project site? _____</p> <p>ii. Source(s) of soil rating(s): _____</p>							
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p>ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p>							
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. CEA name: _____</p> <p>ii. Basis for designation: _____</p> <p>iii. Designating agency and date: _____</p>							



v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☒ No

- If yes, DEC site ID number: \_\_\_\_\_
- Describe the type of institutional control (e.g., deed restriction or easement): \_\_\_\_\_
- Describe any use limitations: \_\_\_\_\_
- Describe any engineering controls: \_\_\_\_\_
- Will the project affect the institutional or engineering controls in place? ☐ Yes ☐ No
- Explain: \_\_\_\_\_

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**E.2. Natural Resources On or Near Project Site**

a. What is the average depth to bedrock on the project site? \_\_\_\_\_ >5 feet

b. Are there bedrock outcroppings on the project site? ☐ Yes ☒ No  
If Yes, what proportion of the site is comprised of bedrock outcroppings? \_\_\_\_\_ %

c. Predominant soil type(s) present on project site:

DwB -- Dutchess - Cardigan	81.7 %
DxB -- Dutchess - Cardigan Urban	8.3 %
NwD -- Nassau - Cardigan	10.0 %

d. What is the average depth to the water table on the project site? Average: \_\_\_\_\_ >5 feet

e. Drainage status of project site soils: ☒ Well Drained: \_\_\_\_\_ 91 % of site  
☒ Moderately Well Drained: \_\_\_\_\_ 9 % of site  
☐ Poorly Drained: \_\_\_\_\_ % of site

f. Approximate proportion of proposed action site with slopes: ☒ 0-10%: \_\_\_\_\_ 34 % of site  
☒ 10-15%: \_\_\_\_\_ 22 % of site  
☒ 15% or greater: \_\_\_\_\_ 44 % of site

g. Are there any unique geologic features on the project site? ☐ Yes ☒ No  
If Yes, describe: \_\_\_\_\_

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h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐ Yes ☒ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☒ Yes ☐ No

If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☒ Yes ☐ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name Hudson River Classification \_\_\_\_\_
- Lakes or Ponds: Name \_\_\_\_\_ Classification \_\_\_\_\_
- Wetlands: Name \_\_\_\_\_ Approximate Size \_\_\_\_\_
- Wetland No. (if regulated by DEC) \_\_\_\_\_

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐ Yes ☒ No  
If yes, name of impaired water body/bodies and basis for listing as impaired: \_\_\_\_\_

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i. Is the project site in a designated Floodway? ☐ Yes ☒ No

j. Is the project site in the 100 year Floodplain? ☐ Yes ☒ No

k. Is the project site in the 500 year Floodplain? ☐ Yes ☒ No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐ Yes ☒ No  
If Yes:  
i. Name of aquifer: \_\_\_\_\_

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes: <div style="margin-left: 20px;">           i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site    <input checked="" type="checkbox"/> Historic Building or District            ii. Name: <u>Bogardus-DeWindt House</u>            iii. Brief description of attributes on which listing is based:  <u>Single family dwelling built in 1792 located on Tompkins Avenue.</u> </div>	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site? If Yes: <div style="margin-left: 20px;">           i. Describe possible resource(s): _____            ii. Basis for identification: _____         </div>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? If Yes: <div style="margin-left: 20px;">           i. Identify resource: <u>Hudson River</u>            ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): <u>Long Dock Park; Pete &amp; Toshi Seeger Riverfront Park</u>            iii. Distance between project and resource: _____ <u>0.2</u> miles.         </div>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? If Yes: <div style="margin-left: 20px;">           i. Identify the name of the river and its designation: _____            ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666?         </div>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No

#### F. Additional Information

Attach any additional information which may be needed to clarify your project.

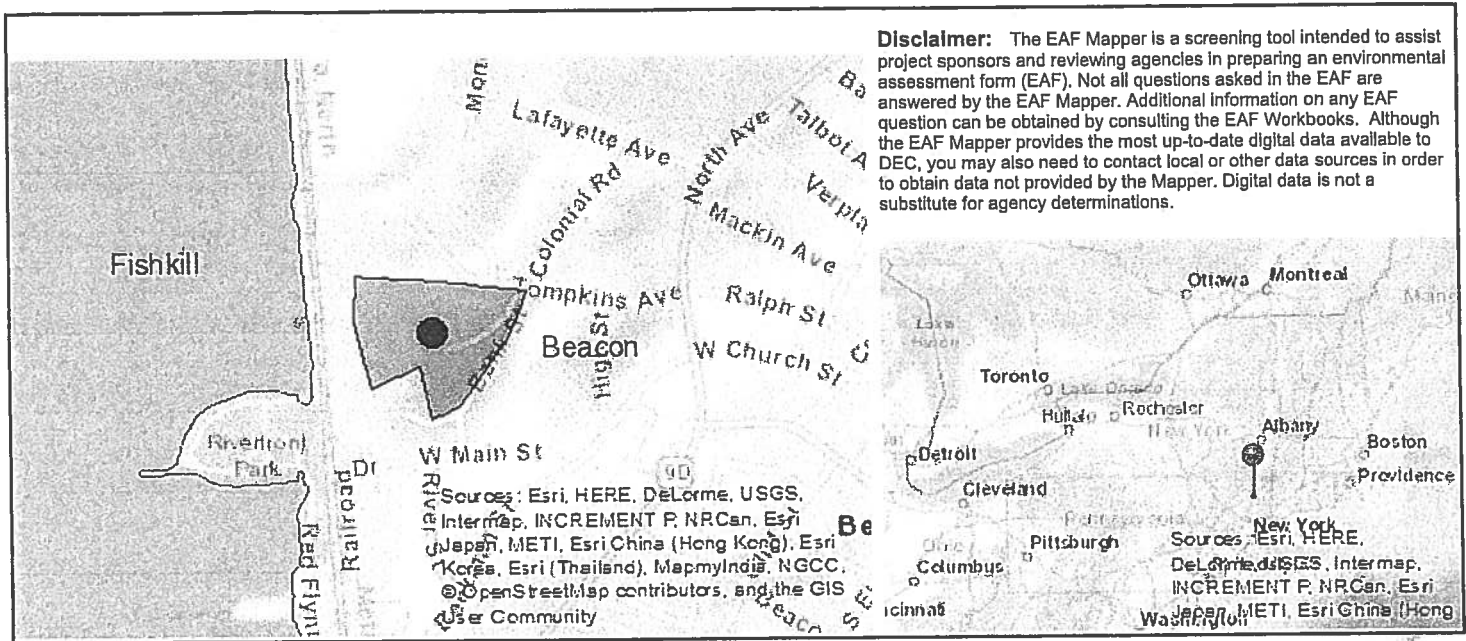
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

#### G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Romey WEBER Date 1-30-17

Signature [Signature] Title OPERATING MEMBER

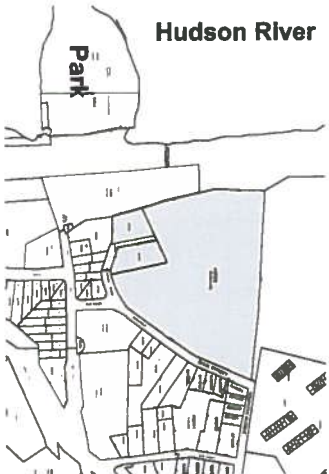


B.1.i [Coastal or Waterfront Area]	Yes
B.1.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	V00293 , C314112 , V00096 , 314069 , 546031
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes



E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	Bogardus--DeWindt House
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No





Zoning Variance Chart

	Number of Units		Distance Between Buildings		Number of Stories	
	Number of Units Allowed	Number of Units Proposed	Distance Between Buildings Allowed	Distance Between Buildings Proposed	Number of Stories Allowed	Number of Stories Proposed
Building						
Building 1	36	48	30'	25' between Building 1 and Building 2	4 1/2	4
Building 2	36	52	30'	25' between Building 2 and Building 3	4 1/2	4
Building 3	36	59	30'	12' between Building 3 and Building 4	4 1/2	5
Building 4	36	32			4 1/2	5
Building 5	36	32	30'	16.3' between Building 5 and Building 6	4 1/2	4
Building 6	36	51	30'	16.3' between Building 6 and Building 7	4 1/2	5
Building 7	36	32			4 1/2	4

Owner:  
**Scenic Beacon Developments, LLC**  
25 East Main Street  
Beacon, NY 12508

Architect:  
**Aryeh Siegel, Architect**  
514 Main Street  
Beacon, New York 12508

Site / Civil Engineer:  
**Hudson Land Design**  
174 Main Street  
Beacon, New York 12508

Surveyor:  
**TEC Land Surveying, P.C.**  
150 Ticonderoga Avenue  
Beacon, New York 12508

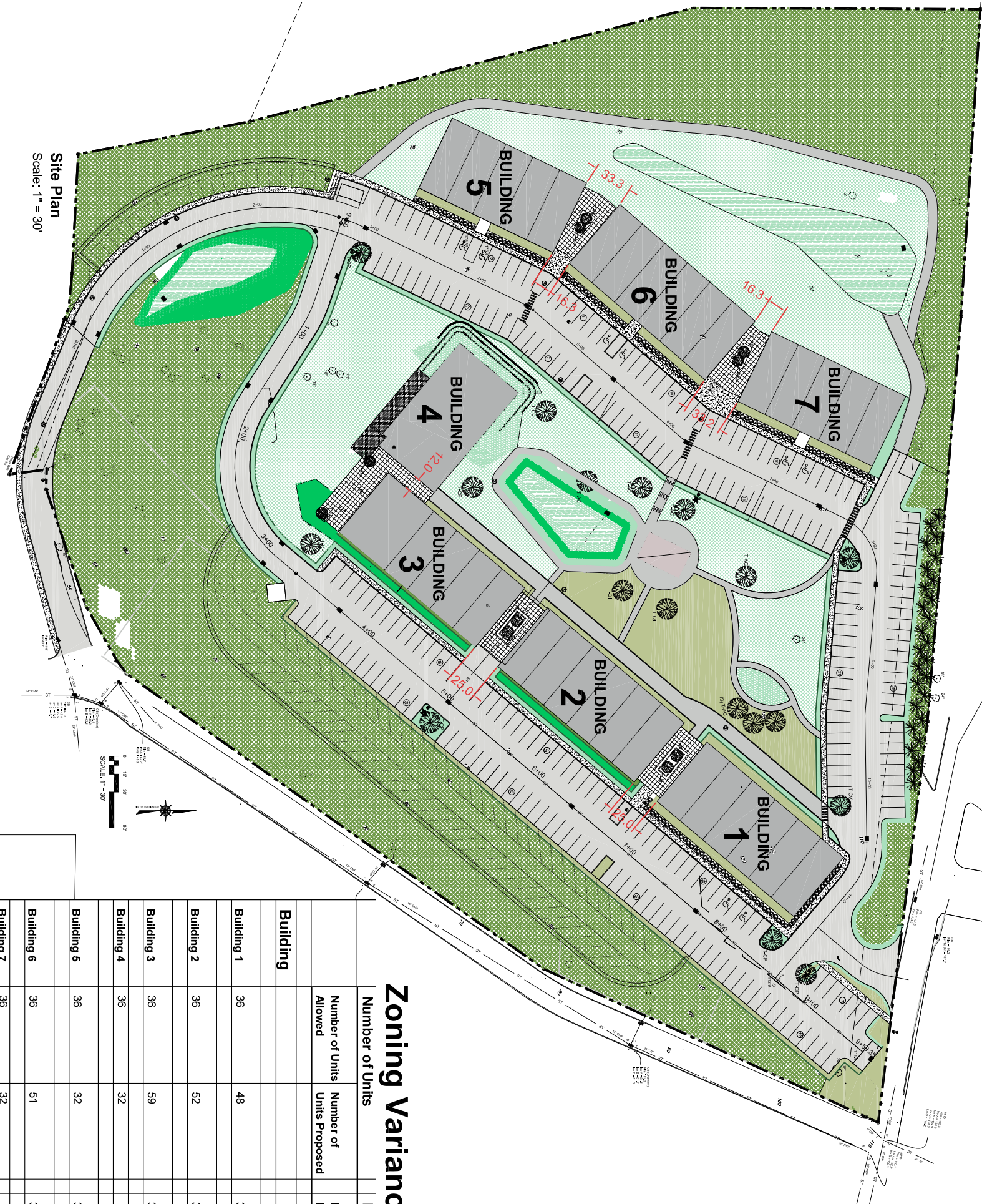
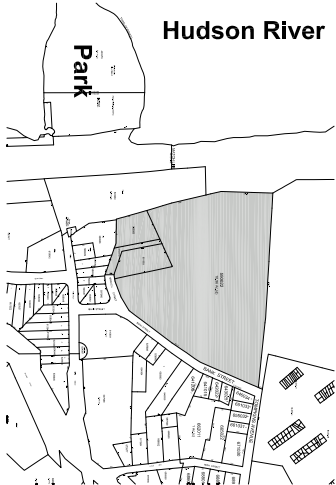
Landscape Designer:  
**Landscape Restorations**  
P.O. Box 288  
Beacon, New York 12508

**Edgewater**  
Beacon, New York  
Scale: 1" = 30'  
January 31, 2017









Site Plan  
Scale: 1" = 30'

## Zoning Variance Chart

Building	Number of Units		Distance Between Buildings		Number of Stories	
	Number of Units Allowed	Number of Units Proposed	Distance Between Buildings Allowed	Distance Between Buildings Proposed	Number of Stories Allowed	Number of Stories Proposed
Building 1	36	48	30'	25' between Building 1 and Building 2	4 1/2	4
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Building 6	36	51	30'	16.3' between Building 6 and Building 7	4 1/2	5
Building 7	36	32			4 1/2	4

Site Plan  
Sheet 1 of 13

Owner:  
**Scenic Beacon Developments, LLC**  
25 East Main Street  
Beacon, NY 12508

Architect:  
**Arveth Siegel, Architect**  
514 Main Street  
Beacon, New York 12508

Site / Civil Engineer:  
**Hudson Land Design**  
174 Main Street  
Beacon, New York 12508

Surveyor:  
**TEC Land Surveying, P.C.**  
115C Tiomonda Avenue  
Beacon, New York 12508

Landscape Designer:  
**Landscape Restorations**  
P.O. Box 286  
Beacon, New York 12508

**Edgewater**  
Beacon, New York  
Scale: 1" = 30'  
January 31, 2017