

Edward A. DiMarco
County Executive

Orange County Department of Planning

Submission Form for Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l,m, & n

Referral ID#: _____
(County use only)

This form is to be completed by the local board having jurisdiction. Submittals from applicants will not be accepted unless coordinated with both the local board having jurisdiction and the County Department of Planning.

Please include all materials that are part of a "full statement" as defined by NYS GML §239-m (i.e. "all materials required by and submitted to the referring body as an application on a proposed action").

Municipality: Town of Newburgh

Local Referring Board: Zoning Board of Appeals

Applicant: BALMILLE CONSTRUCTION INC

Project Name: GIBSON ESTATES

Location of Project Site: 122 ROCK CUT ROAD

Tax Map #: 47-1-28.2

Tax Map #: _____

Tax Map #: _____

Local File No.: ZBAZ013-31

Size of Parcel: _____
*If more than one parcel, please include sum of all parcels.

Reason for County Review: ON ROCK CUT ROAD (CR-23)

Current Zoning District (include any overlays): R-1

Type of Review:

Comprehensive Plan Update/Adoption

Zoning Amendment

Zoning District Change from _____ to _____

Ordinance Modification (cite section): _____

Local Law _____

Site Plan Sq. feet proposed (non-residential only): _____

 Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)

Subdivision Number of lots proposed: _____

 Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)

Special Use Permit _____

Lot Line Change _____

Variance AREA USE (circle one) FRONT YARD & setBACK to centerline

ON COUNTY ROAD LOT #1 & LOT #4

Other _____

Is this an update to a previously submitted referral? YES / NO (circle one) PB Referral

Local board comments or elaboration: _____

Shane Cardone 5/24/13 Chairperson,
Signature of local official Date Zoning Board of Appeals

Municipal Contact Phone Number: 845 566-4901

If you would like the applicant to be cc'd on this letter, please provide the applicant's address: _____

Please return, along with full statement, to: Orange County Dept. of Planning 124 Main St. Goshen, NY 10924
Question or comments, call: 845-615-3840 or email: planning@orangecountygov.com

3. IF VARIANCE TO THE ZONING LAW IS REQUESTED:

- a) APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OR BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED: N/A
- b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: _____

4. DESCRIPTION OF VARIANCE SOUGHT: LOT #1+#4 FRONT YARD

SETBACK FROM COUNTY ROCK CUT ROAD CENTERLINE AND FRONT YARD SETBACK.

5. IF A USE VARIANCE IS REQUESTED: STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT:

- a) UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE:
N/A

(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)

- b) THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE:
N/A

- c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:
N/A

d) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

N/A

6. IF AN AREA VARIANCE IS REQUESTED:

a) THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE:

IT WILL MATCH THE SETBACKS OF THE EXISTING HOMES IN THE AREA.

b) THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE:

THE HOME IS EXISTING. LOT #1. LOT #4 WE WANT TO MATCH THE ADJOINING OWNERS.

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

IT MATCHES THE EXISTING HOMES ON EITHER SIDE OF OUR LOT.

d) THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE:

IT WILL MATCH THE SETBACKS OF THE EXISTING HOMES IN THE AREA.

e) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

EXISTING RESIDENCE, LOT #1. LOT #4 TO MATCH EXISTING NEIGHBORHOOD.

7. ADDITIONAL REASONS (IF PERTINENT):

[Handwritten Signature]
PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OR ORANGE:

SWORN TO THIS 23rd DAY OF May 20 13

[Handwritten Signature]
NOTARY PUBLIC

CHARLENE M. BLACK
Notary Public, State of New York
No. 01BL6149416
Qualified in Orange County
Commission Expires July 10, 2014

NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.

617.20
Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR <u>BALMVILLE CONSTRUCTION, INC.</u>	2. PROJECT NAME <u>GIBSON SUBDIVISION</u>
3. PROJECT LOCATION: Municipality <u>NEWBURGH</u> County <u>ORANGE</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <u>122 ROCK CUT ROAD</u>	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <u>SUBDIVISION OF A 6.11 1/2 ACRE PARCEL INTO ONE EXISTING HOME AND (3) NEW RESIDENTIAL BUILDING LOTS.</u>	
7. AMOUNT OF LAND AFFECTED: Initially <u>6.11</u> acres Ultimately <u>6.11</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly <u>AREA VARIANCE REQUIRED.</u>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? Describe: <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>BALMVILLE CONSTRUCTION, INC.</u> Date: <u>5/19/13</u> Signature: <u>[Signature]</u>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment



PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.47 Yes No If yes, coordinate the review process and use the FULL EAF.

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. Yes No

- C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)
- C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
 - C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
 - C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
 - C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
 - C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
 - C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:
 - C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? Yes No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- 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 AND provide, on attachments as necessary, the reasons supporting this determination.

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)

Reser

Dickover, Donnelly, Donovan & Biagi, LLP
Attorneys and Counselors at Law

James B. Biagi
David A. Donovan
Michael H. Donnelly
Robert J. Dickover

28 Bruen Place
P.O. Box 610
Goshen, NY 10924
Phone (845) 294-9447
mail@dddllaw.com
Fax (845) 294-6553
(Not for Service of Process)

Successor Law Firm To:
Alexander Appelbaum, P.C., Florida, N.Y. (1915-1988)
Ludmerer & Vumo, Esqs., Warwick, N.Y.

May 21, 2013

Town of Newburgh
Zoning Board of Appeals
308 Gardnertown Road
Newburgh, New York 12550

RE: Gibson Estates
47-1-28.2 (Zone R-1)
122 Rock Cut Road (13.09)

Members of the Board:

I write to you as the attorney for the Town of Newburgh Planning Board. The planning board took up consideration of the above referenced subdivision application during its meeting held on May 16, 2013. The applicant proposes a 4-lot residential subdivision with access to Rock Cut Road. Lot #1 has an existing single family home located on it that fails to meet both the front yard setback requirement and the 80-feet from centerline of county roadway requirement applicable in the R-1 zoning district. While this condition is pre-existing, under your prior precedent, the protection afforded by Section 185-19 of the Town of Newburgh Code is lost upon subdivision.

The applicant proposes a placement of the house on Lot 4 that similarly will not comply with the front yard or 80-feet from centerline of county road requirements of the code.

The planning board, therefore, wishes to refer this matter to you for consideration of a grant of variances. The planning board has no particular concerns to bring to your attention during in regard to this application. I note that your consideration of this application is a Type II action under the New York State Environmental Quality Review Act.

Very truly yours,

MICHAEL H. DONNELLY

MHD/lrm

cc: Town of Newburgh Planning Board
308 Gardnertown Road
Newburgh, NY 12550

David A. Donovan, Esq.
Dickover, Donnelly, Donovan & Biagi, LLP
P.O. Box 610
Goshen, NY 10924

Ken Lytle
Zen Design Consultants, Inc.
6 Old North Plank Road, Suite 103
Newburgh, NY 12550

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 23rd day of January, nineteen hundred and eighty,
BETWEEN JAMES G. HUSTON, residing at 105 Blue Ridge Drive,
Clemson, South Carolina;

party of the first part, and DANIEL GIBSON and VICKIE GIBSON, husband and wife,
residing at 3239 Barker Avenue, Bronx, New York, as tenants by the
entirety;

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

-----TEN AND No/100 (\$10.00)-----dollars,

lawful money of the United States, and other good and valuable considerations paid
by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,
lying and being in the Town of Newburgh, County of Orange and State of
New York, described as follows, to wit:

BEGINNING at a stone marked "D" "C" set in the ground in the center
of the Shunpike Road in line of lands of Olive Belknap, and runs thence along
Belknap's lands north twenty-four degrees and twenty-five minutes
east, twenty-three hundred and sixteen feet to a stone wall and at
the southwest corner of lands belonging to David Jagger; thence
along said Jagger's land south sixty-five degrees thirty minutes
east, twenty-four hundred and eighty-seven feet to a tamarack post
set in the swamp; thence along lands of James Shaw and George Watson,
south twenty-five degrees and twenty-four minutes west twenty-two
hundred and eighty-eight feet to a stake set in the ditch on the
southeasterly side of the Shunpike Road, thence along said north
sixty-six degrees ten minutes west twenty-four hundred and eighty
seven feet to the place of beginning.

CONTAINING one hundred and thirty-one acres acres and forty hundredths
of an acre of land.

EXCEPTING and RESERVING a portion of the said premises described as
follows:

BEGINNING at a point on the center line of road known as Forest Road
and on the northerly side of road known as the Shunpike; then south
66° 10' east 388.5 feet along the northerly bounds of said Shunpike
Road to lands of Gillespie; then north 16° east 54 feet along lands
of said Gillespie to a point, thence south 66° 10' east 62 feet
along lands of said Gillespie to a corner; then north 24° 15' east
1515 feet along lands of said Gillespie to a point; then north 74°-
58' west 638 feet, following the center line of a stone fence on
northerly side of a peach orchard, to center line of Forest Road;
then south 20°-17' west 633 feet along center line of road to point
of turn; then south 14°-40' west 850 feet along the center line of
road to place of beginning. Contains 19 acres and .34 of an acre.

The needle readings are made to conform with the old title deed to
said premises; a difference of about 4° at this time.

Also excepting that portion of said premises conveyed by Ivan Tillson and Nettie Tillson, husband and wife, to John Edward Gillespie by deed dated March 16, 1928 and recorded in the Office of the Clerk of the County of Orange, March 17th, 1929 in Liber 684 of deeds at page 176.

EXCEPING and RESERVING from the above described premises the following parcels conveyed by Robert J. Gillespie and Mabel N. Gillespie:

1. To I. Earl Tillson by deed dated June 12, 1936, and recorded in the Orange County Clerk's Office on August 6, 1946 in Liber 1010, cp. 460.
2. To Ira D. Conklin, Sr. by deed dated April 4, 1949 and recorded April 5, 1949 in Liber 1117 cp. 564.
3. To County of Orange by deed dated June 11, 1958 and recorded June 13, 1958 in Liber 1465 cp. 14.
4. To Eugene J. Piaquadio and Marie Piaquadio, his wife, by deed dated July 11, 1966 and recorded July 13, 1966 in Liber 1748 cp. 87.
5. To Merritt F. Reinhard and Mildred Thorne Reinhard, his wife, by deed dated August 10, 1966 and recorded August 30, 1966 in Liber 1752 cp. 5.
6. To Ugo and Pinto, Inc. by deed dated September 18, 1969 and recorded October 21, 1969 in Liber 1832 cp. 929.
7. To Emanuel J. Calviello and Malia Calviello, husband and wife, by deed dated July 1, 1972 and recorded July 3, 1972 in Liber 1911 cp. 206.

BEING the same premises conveyed by Anna C. Huston to James Huston by deed dated August 22, 1979, and recorded in the Orange County Clerk's Office on August 30, 1979, in Liber 2141 of Deeds at Page 948.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

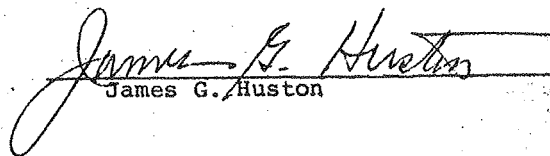
AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

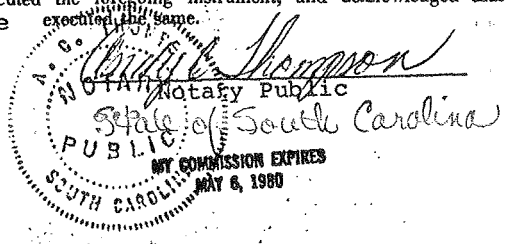
IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:


James G. Huston (L.S.)

On the *23rd* day of January, 19 *80*, before me personally came JAMES G. HUSTON

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.



STATE OF NEW YORK, COUNTY OF 881

On the day of 19 , before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No. ;

that he is the of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

STATE OF NEW YORK, COUNTY OF 882

On the day of 19 , before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. ;

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS
TITLE No. 80 1133904 13^{ac} CTS 80

JAMES G. HUSTON,

TO

DANIEL GIBSON and VICKIE GIBSON

SECTION
BLOCK
LOT
COUNTY OR TOWN

5780
13-
Thompson

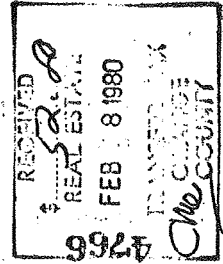
RETURN BY MAIL TO:

Andrew P. Benson Esq.
P.O. Box 2636
10 South Plank Road
Newburgh, NY. Zip No. 12550

Reserve this space for use of Recording Office.

STATE OF NEW YORK (COUNTY OF ORANGE) SS:
I, DONNA L. BENSON, COUNTY CLERK AND CLERK OF THE SUPREME AND COUNTY COURTS, ORANGE COUNTY, DO HEREBY CERTIFY THAT I HAVE COMPARED THIS COPY WITH THE ORIGINAL THEREOF FILED OR RECORDED IN MY OFFICE ON *02/08/80* AND THE SAME IS A CORRECT TRANSCRIPT THEREOF. IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

Donna L. Benson
COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,
ORANGE COUNTY *my 21, 2013*



Orange County Clerk's Office
Received of the *Donna L. Benson*
at *12:00* o'clock *PM* on *Feb 8* day of *1980*
..... at page *227*
and Examined.
Jack G. Sabatino

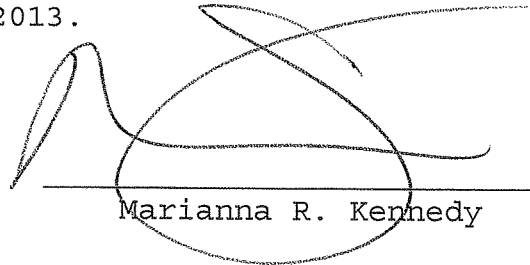
STATE OF NEW YORK:

: ss.

COUNTY OF ORANGE :

I, MARIANNA R. KENNEDY, an attorney duly admitted to practice in the State of New York, do hereby certify that I have compared the attached deed dated May 10, 2013 made by Vickie Gibson to Balmville Construction, Inc., covering premises located at 122 Rock Cut Road, Town of Newburgh, Orange County, New York, SBL 47-1-28.2, with the original thereof which transaction closed in my office on the 13th day of May, 2013 and that the same is a true and correct copy of said original and the whole thereof, as far as the same relates to the subject matters referred therein.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 24th day of May, 2013.



Marianna R. Kennedy

#9357-65458

Bargain & sale deed, with covenant against grantor's acts

11048071

THIS INDENTURE, made the 10 day of May, 2013
BETWEEN

VICKIE GIBSON, residing at 122 Rock Cut Road, Newburgh, New York 12550

party of the first part, and

BALMVILLE CONSTRUCTION, INC. a New York Corporation with offices located at 6 Old North Plank Road, Suite 103, Newburgh, New York 12550,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN AND 00/100 (\$10.00) DOLLARS, lawful money of the United States and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange, and State of New York, being more particularly described on Schedule A annexed hereto and made a part hereof.

SUBJECT TO grants, easements, rights of way in Liber 725 cp 78, Liber 754 cp 149 and Liber 1452 cp 180.

BEING a portion of the premises described in a deed dated January 23, 1980 made by James G. Huston to Daniel Gibson and Vickie Gibson and recorded in the Orange County Clerk's Office on February 8, 1980 in Liber 2157 of Deeds at page 237. The said Daniel Gibson having died a resident of Orange County, New York, on November 3, 2010, leaving the said Vickie Gibson as his surviving tenant by the entirety.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.


AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

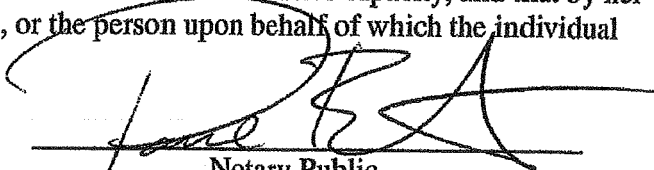
IN PRESENCE OF:



Vickie Gibson

STATE OF NEW YORK :
: ss.
COUNTY OF ORANGE :

On the 10th day of May, 2013, before me, the undersigned, a Notary Public in and for the State, personally appeared VICKIE GIBSON personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

PAUL BRITO, NOTARY PUBLIC
STATE OF NEW YORK, ORANGE COUNTY
NO. 01BR0933921
COMMISSION EXPIRES JULY 17, 2015

JRI/ef/292834
9357-65458
5/6/13

Boundary Description

Lands of Vickie Gibson
Town of Newburgh
Orange County, New York
SBL#: 47-1-28.2

That certain lot of land situate, lying and being in the Town of Newburgh, Orange County, New York, is bounded and described as follows:

Beginning at a point at the intersection of northwestern corner of the lands of Gibson and the center of Rock Cut Road, said point also being the southwestern corner of the lands of Reinhardt; Thence along the northern edge of said lands of Gibson South $63^{\circ}29'43''$ East 698.50' to a point at the intersection with the western edge of the lands of Sunset Crest Realty Corp.; Thence along said lands South $25^{\circ}41'34''$ West 344.14' to a point at the intersection with the lands of Wright; Thence along said lands North $74^{\circ}03'14''$ West 637.90' to a point at the intersection with the center of Rock Cut Road; Thence along the center of Rock Cut Road the following (2) courses: (1) North $21^{\circ}06'05''$ East 186.50, (2) North $14^{\circ}27'55''$ East 281.52 to the point and place of beginning.

Containing 6.11 acres of land more or less

05/13/2013

**BARGAIN AND SALE DEED
WITH COVENANT AGAINST GRANTOR'S ACTS**

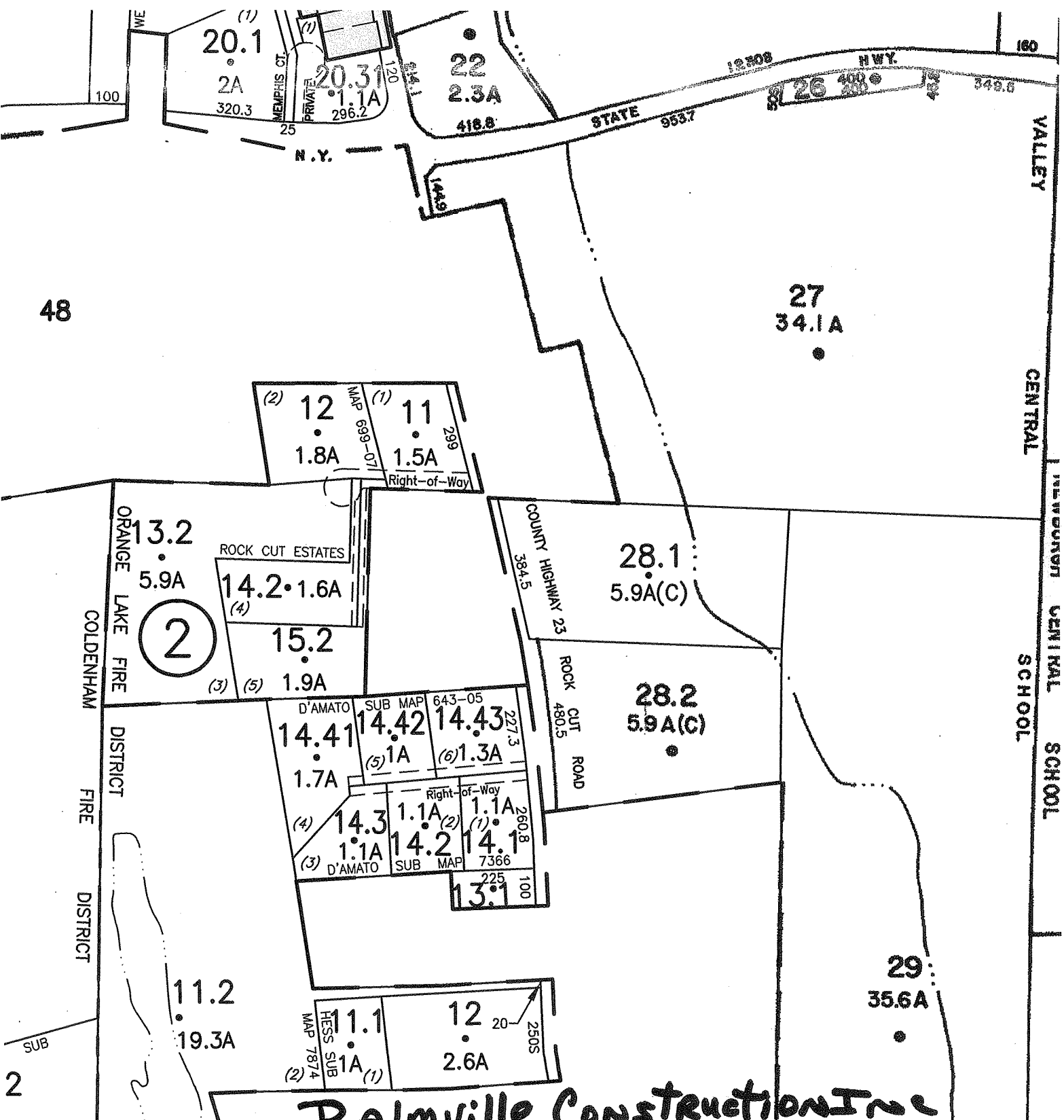
VICKIE GIBSON

to

BALMVILLE CONSTRUCTION, INC.

**SECTION 47
BLOCK 1
LOT 28.2
TOWN OF NEWBURGH
ORANGE COUNTY**

**RETURN BY MAIL TO:
James R. Loeb, Esq.
Drake, Loeb, Heller, Kennedy,
Gogerty, Gaba & Rodd PLLC
555 Hudson Valley Ave., Suite 100
New Windsor, NY 12553**



Balmville Construction Inc
122 Rock Cut Road
47-1-28.2

**TOWN OF NEWBURGH
PLANNING BOARD
308 GARDNERTOWN ROAD
NEWBURGH NEW YORK 12550**

**JOHN P. EWASUTYN
Planning Board Chairman**

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AGENDA

MAY 16, 2013

*******PLEASE NOTE: THE PLANNING BOARD MEETING WILL START AT 7:00 P.M.
AND ALL APPLICANTS/REPRESENTATIVES ARE TO BE PRESENT AT THAT
TIME. THE MEETING WILL BE HELD IN THE MEETING ROOM OF TOWN HALL,
1496 ROUTE 300, NEWBURGH NY**

Subdivision for William Noble (2012-27)
409 Quaker Street
Sec. 11; Blk.1; Lot 143.0
Zone: AR
Rep: Barger and Miller
280 New Hackensack Road
Wappingers Falls, New York 12589

CONTINUATION
PUBLIC HEARING
3 LOT
RESIDENTIAL
SUBDIVISION

Verizon Garage Consolidation (2013-07)
1428 Route 300
Sec. 60; Blk. 3; Lot 22.21
Zone: IB
Rep: Robert Heymach
William F. Collins, AIA Architects, LLP
12-1 Technology Drive
Setauket, New York 11733

SITE PLAN

**AGENDA
MAY 16, 2013
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Valon and Vatan Restaurant (2012-26)
34 North Plank Road
Sec. 84; Blk. 2; Lot 1.1
Zone: B
Rep: Charles Brown, PE
Talcott Engineering and Design, PLLC
1 Gardnertown Road
Newburgh, New York 12550

PUBLIC HEARING
SITE PLAN
ARB

Gibson Estates (2013-09)
122 Rock Cut Road
Sec. 47; Blk. 1; Lot 28.2
Zone: R-1
Rep: Ken Lytle
Zen Design Consultants, Inc.
6 Old North Plank Road
Newburgh, New York 12550

CONCEPTUAL
4 LOT
SUBDIVISION

BOARD BUSINESS:

****WORK SESSION: PROJECT READINESS DISCUSSION SCHEDULED FOR 5:45
P.M. IN THE MEETING ROOM OF TOWN HALL ON THURSDAY, MAY 16, 2013**

*All Town of Newburgh Planning Board agendas are available to print online at www.townofnewburgh.org

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PROJECT ANALYSIS

MUNICIPALITY: TOWN OF NEWBURGH

TOWN PROJECT NO. 2013-09

PROJECT NAME: Gibson Estates
LOCATION: 122 Rock Cut Road (47-1-28.2)
TYPE OF PROJECT: 4 Lot Residential Subdivision with one existing home (6.11 acres)
DATE: May 14, 2013
REVIEWING PLANNER: Bryant Cocks

PROJECT SUMMARY:

Approval Status: Submitted May 9, 2013
SEQRA Status: Unlisted
Zone/Utilities: R-1/individual wells and septic
Map Dated: March 28, 2013
Site Inspection: May 14, 2013
Planning Board Agenda: May 16, 2013
Consultant/Applicant: Ken Lytle, Zen Design Consultants, Inc.
Copies have been sent to: John P. Ewasutyn at the Planning Board Office, James Osborne, Gerald Canfield, Michael Donnelly, Patrick Hines, Karen Arent and Ken Wersted on May 14, 2013

COMMENTS AND RECOMMENDATIONS:

1. The applicant is proposing four lot residential subdivision with an existing home on Rock Cut Road. All lots will be serviced by individual wells and septic systems.
2. The applicant currently has the front yard setback listed at 50 feet. A minimum of 60 feet is required as Rock Cut Road is a County Highway (Section 185-18.C.4.b). Also, the applicant will have to demonstrate that the homes on lots 1 and 4 are 80 feet from the centerline of Rock Cut Road (Section 185-18.C.4.a).
3. The applicant is showing the buildable area requirement as 5,000 square feet instead of the required 10,000 square feet (Section 185-48.5.E.3.a.1). This area should be shaded on the plans as well as shown in the bulk table.
4. The DEC has written a letter to the applicant stating there is no Wetland Permit necessary since there is no work proposed in the wetland or wetland buffer area. They had no objection to utilizing the wetland buffer to satisfy the bulk requirements for lot area. Single Family homes do not need to deduct wetland areas from their lot area calculation under Section 185-48.5.C.
5. Can the applicant explain the lot configuration for Lot 1? There is a twenty foot wide strip of land that is currently proposed to remain in Lot 1 along the northern property line. The majority of this strip contains wetlands and buffer areas so would most likely never be developed and should be part of Lot 2 to prevent future property disputes.

6. The existing home currently has two access points onto Rock Cut Road. With the new subdivision the applicant will abandon the southern portion of the driveway for construction of the shared driveway for Lots 2 and 3. The Planning Board should discuss abandoning the driveway before the plans are signed so three dwelling units are not utilizing one driveway. A site inspection will most likely be necessary to ensure this work is completed as a condition of approval before the plans are signed. A common driveway access and maintenance agreement must be provided for Mike Donnelly's review.
7. If the homes stay in the locations on the current plan, foundation staking will be required and a note should be placed on the plans stating such.
8. The Orange County DPW and Planning Departments will need copies of the plans for their review. The Planning Board can discuss Declaring their Intent for Designation of Lead Agency but I would suggest the applicant address the zoning issues discussed earlier in this memo before sending the plans out in case there are major changes.
9. The applicant has been sent the Adjoiner Notice and list of property owners from the Assessor's office. The notice is required to be sent out within ten business days of the May 16, 2013 meeting. An affidavit will be required to be submitted in accordance with the Local Law 2 of 2013. A copy of the law can be forwarded to the applicant for their review if needed.

The above comments represent my professional opinion and judgment, but may not necessarily, in all cases, reflect the opinion of the Planning Board. Please revise your plans to reflect these comments with the understanding that further changes may be required. In all cases the requirements of the Zoning Law and Subdivision Regulations shall be adhered to by the applicant and shall be shown on the plans. Where variances to the Zoning Law are required or where waivers from the Subdivision Regulations are needed, specific requests shall be made to the Planning Board for a waiver or for referral to the ZBA. These comments are prepared based on current zoning and subdivision regulation requirements. Any change in those regulations prior to final approval of these plans could require revisions beyond the scope of my existing comments.