

Edward A. Nanni
County Executive

Orange County Department of Planning

Submittal Form for Mandatory Review of Local Planning Action

as per NYS General Municipal Law §239-1,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: Balmville 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.: _____

Size of Parcel: 5.9
if more than one parcel, please include sum of all parcels.

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

Reason for County Review: on Rock Cut Road (CR-23)

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 MINIMUM
 AREA USE (circle one) Lot #1 & Lot #4

Other

Is this an update to a previously submitted referral? YES / NO (circle one) WAS ON OUR JUNE 27 AGENDA

Local board comments or elaboration: & ALSO PLANNING BOARD MAY & JULY 2013

Shoe Cardone 7/31/12 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

1

TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS
OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

APPLICATION

OFFICE OF ZONING BOARD
(845) 566-4901

DATED: 7/29/13

TO: THE ZONING BOARD OF APPEALS
THE TOWN OF NEWBURGH, NEW YORK 12550

I (WE) BALMVILLE CONSTRUCTION, INC PRESENTLY
RESIDING AT NUMBER 6 OLD NORTH PLANK ROAD
TELEPHONE NUMBER 845-629-1567

HEREBY MAKE APPLICATION TO THE ZONING BOARD OF APPEALS FOR
THE FOLLOWING:

- A USE VARIANCE
- AN AREA VARIANCE
- INTERPRETATION OF THE ORDINANCE
- SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:

47-1-28.2 (TAX MAP DESIGNATION)
122 ROCK CUT ROAD (STREET ADDRESS)
R-1 (ZONING DISTRICT)

2. PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

185-48.5

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: _____
- b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: 7/22/13

4. DESCRIPTION OF VARIANCE SOUGHT: LOT #1 - TOTAL AREA = 37,117sf.
LOT #4 - TOTAL AREA = 27,844

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

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

(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:

c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:

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

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 MEETS THE LOT WIDTH /DEPTH REQUIREMENTS
THE ADDITION AREA WOULD BE UNDER WATER

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:

WE ARE LIMITED TO THE EXISTING LOT
CONFIGURATION

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

IT WILL BE A VARIANCE FROM UNUSABLE
PROPERTY.

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 BE MINOR IN NATURE AND NOT DISTURB
THE CURRENT CONDITIONS.

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

WE ARE LIMITED TO THE EXISTING LOT
CONFIGURATION.

7. ADDITIONAL REASONS (IF PERTINENT):



PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 31st DAY OF JULY 2013



NOTARY PUBLIC

ANDREW J. ZARUTSKIE
Notary Public, State of New York
No. 01ZA4502524
Qualified in Orange County
Commission Expires Nov. 30, 2013

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.


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 Balmville Construction, Inc.	2. PROJECT NAME Gibson Estates Subdivision
3. PROJECT LOCATION: Municipality Town of Newburgh County Orange	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 122 Rock Cut Road, Newburgh	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: 4 Lot Residential Subdivision	
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 Area variance requested.	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <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 Describe:	
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: Balmville Construction, Inc. Date: 07/29/2013 Signature: 	

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

OVER

1

Reset

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

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? 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.

07/29/2013

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)

Reset

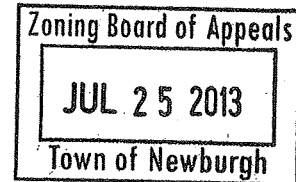
AT 21-1-1
ZBA for a 1-1

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@ddbllaw.com
Fax (845) 294-6553
(Not for Service of Process)

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



July 22, 2013

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

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

Members of the Board:

The applicant referenced above has appeared several times before the planning board with a proposed 4-lot subdivision. The site is rather unique with a great deal of wetlands and lands underwater and is long and deep without a great deal of lot frontage. The applicant has presented a conforming 4-lot subdivision layout. However, in order to achieve lot area for all 4 lots, the geometry is rather unusual with wings extending to the rear of wetland area with small triangles attached to two of the lots. None of these lot lines will be visible from the street and indeed all of the unusual geometry will be completely underwater. However, the planning board is not comfortable with the precedent of approving such an unusual lot layout just to achieve lot area. Therefore, the planning board has asked me to refer this matter to you for consideration of granting a lot area variance to avoid the need for this extremely unusual layout.

Beyond the comments set forth above, the planning board has no particular concerns to bring to your attention. The planning board recommends that you handle the review of this variance on an uncoordinated review basis under the New York State Environmental

Quality Review Act.

Very truly yours,



MICHAEL H. DONNELLY

MHD/lrm

Cc: Town of Newburgh Planning Board
Zen Design Consultants, Inc.

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

TYPE IN BLACK INK:
NAME(S) OF PARTY(S) TO DOCUMENT

VICKIE GIBSON
TO
BALMVILLE CONSTRUCTION, INC.

SECTION 47 BLOCK 1 LOT 28.2

RECORD AND RETURN TO:
(name and address)

DRAKE, LOEB, HELLER, KENNEDY,
GOGERTY, GABA & RODD PLLC
555 Hudson Valley Avenue
Suite 100
New Windsor, New York 12553



Saw original
7/31/13

gpc

THIS IS PAGE ONE OF THE RECORDING

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED [X] MORTGAGE SATISFACTION ASSIGNMENT OTHER

PROPERTY LOCATION

- 2089 BLOOMING GROVE (TN)
2001 WASHINGTONVILLE (VLG)
2003 SO. BLOOMING GROVE (VLG)
2289 CHESTER (TN)
2201 CHESTER (VLG)
2489 CORNWALL (TN)
2401 CORNWALL (VLG)
2600 CRAWFORD (TN)
2800 DEERPARK (TN)
3089 GOSHEN (TN)
3001 GOSHEN (VLG)
3003 FLORIDA (VLG)
3005 CHESTER (VLG)
3200 GREENVILLE (TN)
3489 HAMPTONBURGH (TN)
3401 MAYBROOK (VLG)
3689 HIGHLANDS (TN)
3601 HIGHLAND FALLS (VLG)
3889 MINISINK (TN)
3801 UNIONVILLE (VLG)
4089 MONROE (TN)
4001 MONROE (VLG)
4003 HARRIMAN (VLG)
4005 KIRYAS JOEL (VLG)
4289 MONTGOMERY (TN)
4201 MAYBROOK (VLG)
4203 MONTGOMERY (VLG)
4205 WALDEN (VLG)
4489 MOUNT HOPE (TN)
4401 OTISVILLE (VLG)
4600 NEWBURGH (TN)
4800 NEW WINDSOR (TN)
5089 TUXEDO (TN)
5001 TUXEDO PARK (VLG)
5200 WALLKILL (TN)
5489 WARWICK (TN)
5401 FLORIDA (VLG)
5403 GREENWOOD LAKE (VLG)
5405 WARWICK (VLG)
5600 WAWAYANDA (TN)
5889 WOODBURY (TN)
5801 HARRIMAN (VLG)
5809 WOODBURY (VLG)
CITIES
0900 MIDDLETOWN
1100 NEWBURGH
1300 PORT JERVIS
9999 HOLD

NO. PAGES 4
CERT. COPY
MAP#
PAYMENT TYPE: CHECK [X]
CASH
CHARGE
NO FEE

Taxable
CONSIDERATION \$ 240,000.00
TAX EXEMPT
Taxable
MORTGAGE AMT. \$

- MORTGAGE TAX TYPE:
(A) COMMERCIAL/FULL 1%
(B) 1 OR 2 FAMILY
(C) UNDER \$10,000
(E) EXEMPT
(F) 3 TO 6 UNITS
(I) NAT.PERSON/CR. UNION
(J) NAT.PER-CR.UN/1 OR 2
(K) CONDO

Donna L. Benson
DONNA L. BENSON
ORANGE COUNTY CLERK

Received From Hill-n-Dale

RECORDED/FILED
05/22/2013 12:03:55
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY
FILE#20130052961
DEED R / BK 13569PG 0318
RECORDING FEES 190.00
TTX# 005918 T TAX 960.00
Receipt#1608664 pete

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 05/22/13 AND THE SAME IS A CORRECT
TRANSCRIPT THEREOF. IN WITNESS WHEREOF, I HAVE
HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL

Donna L. Benson
COUNTY CLERK & CLERK OF THE SUPREME COUNTY
ORANGE COUNTY July 30, 2013



#9357-65458

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

11048971

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.

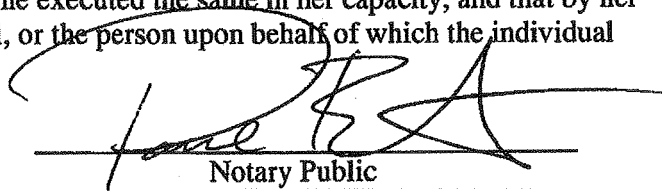
IN PRESENCE OF:



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. 01BR493321
COMMISSION EXPIRES JULY 17, 2015

JRL/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

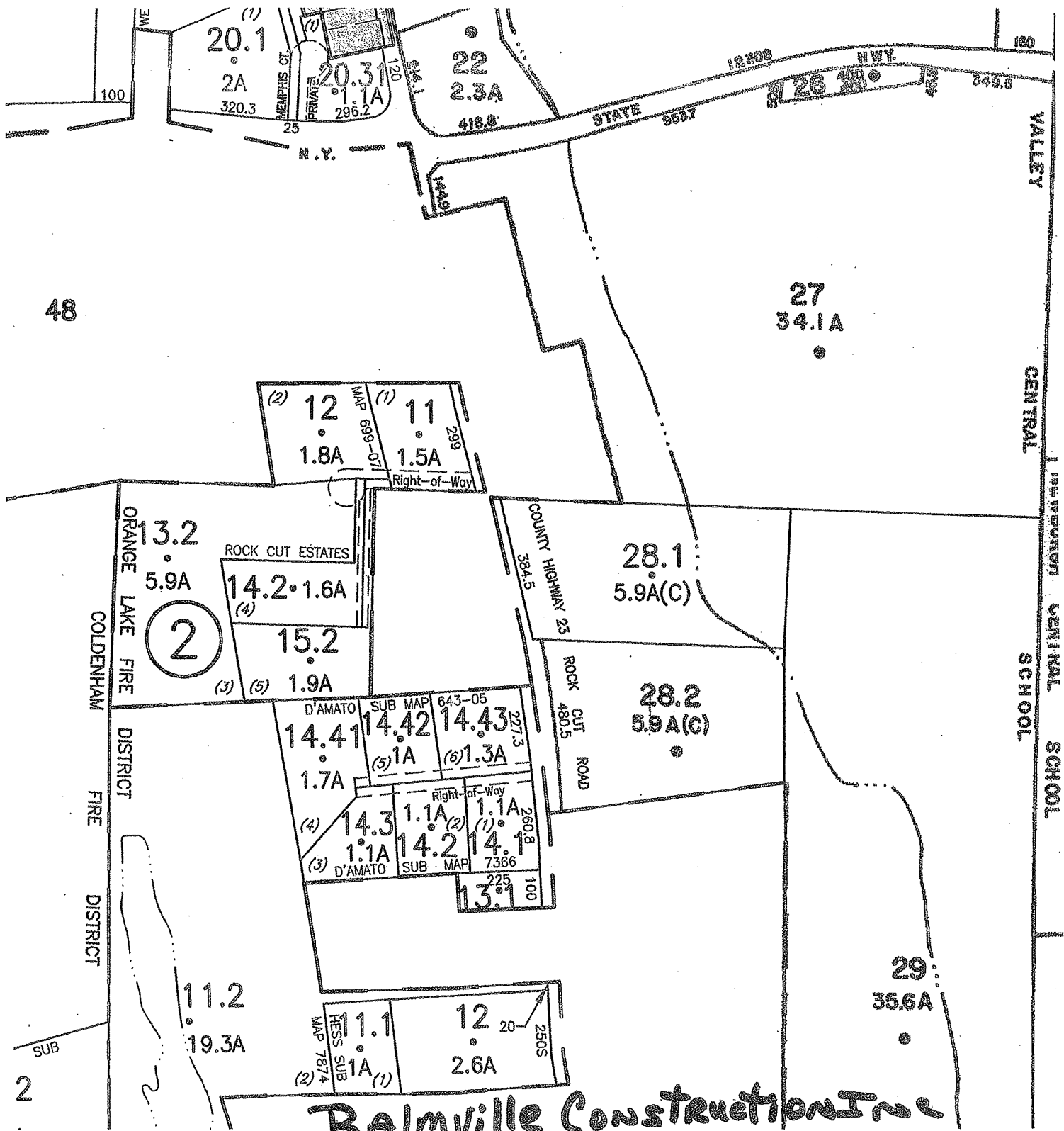
That certain lot of land situate, lying and being in the Town of Newburgh, Orange County, New York, is bounded and described as follows:

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

HILL-N-DALE ABSTRACTERS, INC.
20 SCOTCHTOWN AVENUE
P.O. BOX 547
GOSHEN, NEW YORK 10924
(845) 294-5110
FAX (845) 294-9581



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