

Jacobowitz & Associates Law Firm, LLP

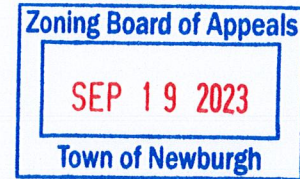
PO Box 366
Walden, New York 12586

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September 19, 2023

Hon. Chairman and ZBA Members
Town of Newburgh
Town Hall
1496 NY 300
Newburgh, New York 12550



RE: Application of July4Ever, LLC

Dear Chairman and Members:

This submission is provided to supply answers for issues raised at the July 2, 2023, public hearing from your attorney, Hon. Gerald Canfield, Hon. Joe Campbell and board members.

1. The use variance was based on use of the premises for storage and vending of Class C products, not Class B. The differences are set out on Exhibit 1. The operational and security requirements for Class B are greater than necessary for Class C. The original application expressly stated use was for Class C fireworks as the approved use. See paragraph 4 of the Decision dated November 10, 1982. A copy is annexed as Exhibit 2, 4 pages.

2. The office trailer and fabric domed storage structures were never approved as required by the use variance terms. They are structures per zoning law definitions. Copy attached as Exhibit 3.

3. Were there violations issued to the Tenant and what disposition? Attached as Exhibit 4, 2 pages, is the Code Enforcement Notice to the Tenant of violations dated January 20, 2023. There was no further enforcement action. The notice was withdrawn, canceled or abandoned. On or about June 22, 2023, the code enforcement staff took the position the violations in the notice or otherwise would be dealt with by the ZBA. Exhibit 5, 5 pages, attached is the Communication transcript pages 1-4, 18. The entire transcript is available.

4. Can there be residential use and business use on the same property?

A. The use variances granted (there are 3) varied the R zone provisions to the extent of the express and implied business uses allowed. That did not negate the uses allowable in the R zone.

B. The mobile home is a reasonable and compatible residential use for a caretaker security residence for someone employed by the business and required as a condition of employment to reside on the premises.

C. In the B District (which ZBA counsel says is the property zoning classification based on the use variance), as per 185 attachment 11, Table of Use - Schedule 7, Column C, Permitted Uses, allows at 1 "Existing single-family dwellings without both public sewer and water systems." Exhibit 6.

D. The property is within the R-1 Zoning district. 185 Attachment 7, Table of Use - Schedule 3, Column A, Accessory Uses, allows at 8. "Separate living quarters within the permitted structure for persons employed on the premises" as permitted with use C-1. Exhibit 7.

5. The original use variance application that was approved in paragraph 4 of the Decision dated November 10, 1982, expressly noted the use was storage of fireworks "in connection with its business of vending the same." See Exhibit 1, page 2, paragraph 4.

6. Does the property access provide compliant adequate road accessibility?

A. This property was carved out to be where it is as an isolated island with the intent and purpose to limit visibility, entry and accessibility. The issue of adequate accessibility was addressed satisfactorily for multiple decades;

B. In the September 25, 2003, variance granted in response to the September 18, 2002, application, the representations by the Applicant were accepted as set forth on page 4 of the Application, items numbered 2, 3 and 4 as follows:

2. Grading and filling of bad spots in entrance drive (emergency vehicles);
3. Replace gates at road and site entrances (security);
4. Replace fences damaged by age and deer (security);

7. The residential-office structure is a mobile home. That is what was applied for and approved by the ZBA in its decision of September 25, 2003. On page 1 of the ZBA minutes September 26, 2002, first paragraph it expressly states:

Applicant is seeking to permit maintenance of
mobile/modular home on premises located at 382 Rock Cut
Road in the Town of Newburgh.

That application was granted in the decision of September 25, 2003. Exhibit 8, 2 pages.

Whether it is a mobile home or a modular home it was approved as a structure by virtue of the Board's approving decision.

We trust the above adequately responds to the questions raised. We look forward to responding to provide further responses as requested.

Very truly yours,

Gerald N. Jacobowitz

Enclosure

cc: July4Ever, LLC



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Washington, DC 20226

www.atf.gov

October 25, 2022

903070:WJO
23-844958
555.11
5401

Mr. John Sagaria
J & J Computing, Inc.
121 Gertrude Avenue
Paramus, New Jersey 07652

Federal Explosives License Number:8-NJ-003-51-00310

Dear Mr. Sagaria:

This is in response to your e-mail dated October 10, 2022, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). You requested that ATF determine if a mobile home containing a business office at the J & J Computing, Inc. (J & J) fireworks premises is an inhabited building under the Federal explosives regulations at 27 CFR, Part 555. We have determined that the mobile home and a nearby modular home as described below are inhabited buildings.

Based upon your e-mail message and discussions with ATF's Newark Field Division, a mobile home containing a business office is located at a business premises that J & J shares with another fireworks business, July 4 Ever Fireworks, Inc. (July 4 Ever) at 382 Rock Cut Road, Walden, New York. J & J stores display fireworks at this premises. According to the information provided, the business office is regularly occupied by the owners of July 4 Ever in connection with their consumer fireworks business. In addition, we understand that next to the business office sits a modular home that is regularly occupied by the owners of July 4 Ever either in connection with their consumer fireworks business, or as a residence, or both.

The Federal explosives regulations at 27 CFR § 555.206 require that explosives storage magazines containing display fireworks meet minimum distance requirements to, among other things, inhabited buildings. The regulation at Section 555.11 defines an "inhabited building" as, "Any building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials."

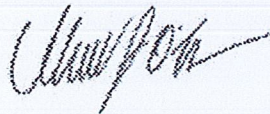
Mr. John Sagaria

The regulation at 27 CFR § 555.141 exempts the importation, distribution, and storage of fireworks classified as UN0336, UN0337, UN0431, or UN0432 explosives by the U.S. Department of Transportation at 49 CFR 172.101 and generally known as "consumer fireworks" or "articles pyrotechnic." Consumer fireworks that meet the criteria specified in the definition of "consumer fireworks" in 27 CFR § 555.11 are exempt from ATF's explosives regulations.

Therefore, buildings occupied only in connection with exempt consumer fireworks are not subject to the aforementioned inhabited building exception. Hence, we have determined that the consumer fireworks business office at 382 Rock Cut Road, Walden, New York, is an inhabited building subject to the table of distance requirements in 27 CFR 555, Subpart K – Storage. In addition, the nearby modular home is an inhabited building because it is occupied as a residence, or in connection with a consumer fireworks business, or both.

We trust the foregoing has been responsive to your request. If you have additional questions, please feel free to contact the Explosives Industry Programs Branch at (202) 648-7120.

Sincerely yours,



Michael J. O'Lena
Chief, Explosives Industry
Programs Branch

cc: Director, Industry Operations, New York Field Division
Area Supervisor, New Jersey Group III Area Office
Chief, Federal Explosives Licensing Center
jsagaria@fwextravaganza.com

FILED: KINGS COUNTY CLERK 12/01/2022 01:15 PM

NYSCEF DOC. NO. 220

INDEX NO. 409/2018

RECEIVED NYSCEF: 12/01/2022

From: "DeBiase, Edward A." <Edward.DeBiase@atf.gov>
Date: Tuesday, October 18, 2022 at 7:35 AM
To: John Sagaria <jsagaria@fwextravaganza.com>
Subject: ATF Inspection

Mr. Sagaria,

Regarding Bunker #1 located at the Walden storage site, please have all product removed by 11/30/22. Also, the new maximum storage weight for this site is going to be 10,000 lbs based on the inhabited building. Please comply with the new max weight by 11/30/22.

Please keep me updated on the status of your letter from EIPB once you receive it.

I would like to come out to the Walden site on 11/29 to measure distances for the new plat diagram and would like to conduct the closing conference on 11/30.

Thank you,

Ed

11/10/12

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TOWN OF NEWBURGH
ZONING BOARD OF APPEALS

In the Application of
EASTCOAST NOVELTY, INC.

DECISION AND
RESOLUTION

The application of Eastcoast Novelty, Inc. seeks a use variance to permit the storage of fireworks upon premises located at Rock Cut Road and East Rock Cut Road, an R-2 Zone in the Town of Newburgh.

The applicant having submitted his application, paid the required fee, provided a true copy of the property description, submitted a plot plan and list of property owners within three hundred feet, the matter was noticed for public hearing and notice thereof was mailed by the applicant to said owners and caused to be published by the Chairman of the Board; and the hearing being conducted, the Board thereupon entered into executive session and does find as follows:

1. That the procedural requirements of the Law of the State of New York, the Zoning Ordinance of the Town of Newburgh, and the regulations of this Board have been complied with in all respects.

2. The applicant herein is the prospective tenant of lands owned by LISJUL Co. and comprising some 150 acres of land situate between Rock Cut Road and East Rock Cut Road. The parcel is vacant, being improved by an area of fencing and three reinforced concrete storage bunkers formerly used by the military for munitions storage.

3. The owner of subject parcel has been in title to the same for some ten years and has demonstrated that the said parcel is not compatible for development in accordance with permitted R-2 Zone uses because of water and welland problems associated with the parcel and the area in general, and because of the existing, but abandoned, munitions storage facilities. The area is remote and generally undeveloped.

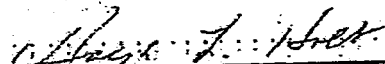
4. The use proposed by the applicant-tenant is for utilization of some six acres of the overall site, that portion being the portion of the lands heretofore fenced and developed for munition storage. Applicant proposes to utilize the existing improvements for storage of Class C Fireworks in connection with its business of vending the same. The use is perfectly compatible to the former use of the same property, utilizing and improving existing structures.

THERE BEING NO FURTHER FINDINGS REQUIRED of this Board, a variance as to the use of the lands of LISJUL Co. is hereby granted to LISJUL CO., as owner, and Eastcoast Novelty, Inc., as tenant, for that six acre portion of the lands of

the owner as set forth in the site plan herein, together with any required access thereto, subject to the following terms and conditions:

1. that the said area shall be entirely fenced, either with new fencing or appropriate repair of existing fencing, including barb wire top,
2. that there shall be no new or additional structures introduced to said premises, any office use being conducted within the existing structural improvements existing,
3. existing lighting shall be repaired and shall be maintained in working order,
4. the security alarm system shall be tied to the Town of Newburgh Police Department and the applicant-tenant shall provide for and maintain evening security patrols,
5. the property shall be clearly posed and there shall be access gates established at Rock Cut Road and at the entrance to the site,
6. there shall be no other development of surrounding lands in title to the owner except upon review and approval of the Zoning Board of Appeals of the Town of Newburgh.

DATED: Newburgh, New York
November 10th, 1982

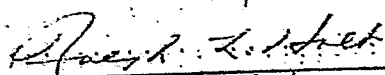


Ralph L. Holt, Chairman

VOTING APPLICATION OF EASTCOAST NOVELTY, INC.

| | | |
|------------------|------|-----|
| RALPH L. HOLT | VOTE | AYE |
| JAMES A. SARVIS | VOTE | AYE |
| DOUGLAS CARLE | VOTE | AYE |
| OLIVER COSMAN | VOTE | AYE |
| RICHARD RASKIN | VOTE | AYE |
| JOHN P. DeLESSIO | VOTE | AYE |
| PAUL BLANCHARD | VOTE | AYE |

Dated: November 10, 1982
Newburgh, New York



Ralph L. Holt, Chairman

15

SPECIAL PERMIT USE

A use which because of its unique characteristics requires individual consideration through a special review process by the Planning Board as established by § 274-a of the Town Law of the State of New York or through a special review process by the Zoning Board of Appeals as established by § 267 of the Town Law. Such a use may require the meeting of certain conditions and safeguards before being permitted.

STEEP SLOPE

A contiguous area of at least 5,000 square feet containing a slope with a topographical gradient equal to or greater than 25%.

[Added 11-1-2010 by L.L. No. 8-2010]

STREET

A public or private way which affords principal means of access to abutting properties.

STREET LINE

The dividing line between a lot and a street.

STREET OR ROAD FRONTAGE

The distance along the property line of a lot at the street line measured between adjacent lots. Lot frontage shall be measured along the same line and shall not be confused with lot width.

[Added 9-23-1998 by L.L. No. 10-1998]

STRIPPING OF LAND

The removal of vegetation, topsoil or subsoil from an area exceeding 10,000 square feet or 10% of a lot, whichever is less.



STRUCTURE

Anything which is constructed or erected which requires a location on the land or attachment to something having such location, including but not limited to the following:

- (1) Signs or billboards.
- (2) Fences.
- (3) Walls, other than those less than four feet high.
- (4) Radio and television antennas, except for such antennas installed on the roof of the building.
- (5) Pergolas, porches, outdoor bins, toolsheds, carports, equipment and storage buildings or sheds, swimming pools, swimming pool filter pads, tennis courts, doghouses or sheds, and children's tree houses, clubhouses, dollhouses and playhouses and structures all of which are over 10 feet in height.
[Amended 9-23-1998 by L.L. No. 10-1998]
- (6) Tents, lunch wagons, trailers, dining cars or similar structures on wheels or other supports used for business or living purposes.
- (7) The term "structure" shall also include "building."

STRUCTURE, TEMPORARY

One erected, constructed or placed upon the premises to exist there for a brief or temporary duration of time, not exceeding one year. All other structures shall be deemed and considered permanent for the purposes of this chapter.

SUBSTANCE ABUSE REHABILITATION HOME

A dwelling unit that provides a supervised residence and a therapeutic environment for four to 14 individuals for a period not to exceed 28 days for any one individual and that is subject to licensing by the State Division of Substance Abuse Services.

TRAILER, CAMPING

Any unit designed for temporary living purposes on a public or private campsite or as an accessory to such living purposes, with one or more wheels, designed to be hauled by a private motor vehicle or constructed as an integral part thereof. Such units shall not be provided with water and sewer connections for year-round use.

TRAVEL CENTER

An integrated facility providing a range of services primarily for private passenger, business and commercial users of the interstate highway system. Services provided shall include, at a minimum, sale of prepared foods for on-premises or off-premises consumption, restrooms and fuel service. Additional services may include those such as the following: business services such as telephone, FAX and computer terminal access, tourist information, sale of convenience items, showers and related personal convenience facilities, truck and car wash and lubrication facilities and overnight lodging accommodations. All components of a travel center are regulated solely under the provisions of § 185-48.1 of this Zoning Chapter as herein enacted and not by any of the separate regulatory

4 7/2



TOWN OF NEWBURGH
~Crossroads of the Northeast~

CODE COMPLIANCE DEPARTMENT
21 HUDSON VALLEY PROFESSIONAL PLAZA
NEWBURGH, NEW YORK 12550

TELEPHONE 845-564-7801
FAX LINE 845-564-7802

ORDER TO REMEDY

Date: 01/20/2023

John Sagaria
382 Rock Cut Rd
Walden, NY 12586

SEC-BLK-LOT: 11-1-60.2

COMPLAINT NO: 22-0338

LOCATION: 382 Rock Cut Rd, Walden

PLEASE TAKE NOTICE, there exists a violation at the location described above, in that the above named individual(s) did commit or allowed to exist the following offense:
Retail store located in an area not zoned for retail, no certificate of occupancy for modular home.

Based upon the following:

In that on 12/19/2022 at the defendant did:
Occupy a modular home to be used as an office and a trailer used as a retail space in an area not zoned for retail, all without a certificate of occupancy.

Which is in violation of:

2020 NYS Codes\2020 Building Code of NYS\Section 105 Building Permits, Construction Inspections, Stop Work Orders, Certificates of Occupancy, and Operating Permits\105.2 - Building Permits **Which provides as follows:**
No person or entity shall commence, perform, or continue any work that must conform with the Uniform Code and/or Energy Code unless:

1. Such person or entity has applied to the authority having jurisdiction for a building permit,
2. The authority having jurisdiction has issued a building permit authorizing such work,
3. Such building permit has not been revoked or suspended, and
4. Such building/permit has not expired.

Which is in violation of:

2020 NYS Codes\2020 Building Code of NYS\Section 105 Building Permits, Construction Inspections, Stop Work Orders, Certificates of Occupancy, and Operating Permits\105.5.1 - Authorized Uses and Occupancies **Which provides as follows:**
Where a certificate of occupancy has been issued for a building or structure, or any portion thereof, no person or entity shall use or occupy such building or structure, or such portion thereof, for any use or occupancy other than that authorized

by such certificate of occupancy.

For the purposes of assessing fines/penalties, your violation shall be deemed to have occurred as of 12/19/2022 2:58:00 PM. Please Note: A violation of the above code provision is punishable by a fine/penalty not to exceed two hundred fifty (\$250.00) or imprisonment for a period not to exceed six (6) months. Each week that a violation continues shall be deemed a separate offense.



Melissa Y. Velazquez, Code Compliance Dept.

TRANSCRIPT OF RECORDED PHONE CONVERSATION
BETWEEN
JOHN SAGARIA AND JIM CAMPBELL

SAGARIA/CAMPBELL, Phone Conversation

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MR. CAMPBELL: Jim Campbell with the Town of Newburgh Building Department. How are you doing today?

MR. SAGARIA: Hi, Jim. How's it going?

MR. CAMPBELL: Good.

MR. SAGARIA: Listen, I'm in a court battle with the other people that own the property here, and I just received today that ... that, I guess, infraction or whatever it was back from January.

MR. CAMPBELL: Hm-hmm.

MR. SAGARIA: And I never received that before today, sir. I just wanted to let you know.

MR. CAMPBELL: Okay. Yeah. Yeah, no, because that complaint never went out. That -- you received it, you must have received it from -- who did you receive it from?

MR. SAGARIA: From Esposito. He sent it to the Court today.

MR. CAMPBELL: Okay. What -- where that come -- somebody FOILED the file.

MR. SAGARIA: I see.

MR. CAMPBELL: Freedom of Information.

MR. SAGARIA: Yeah.

MR. CAMPBELL: That complaint never went out. Yes, it's a complaint, but it was never acted upon because right now a lot of things, and part of your stuff

SAGARIA/CAMPBELL, Phone Conversation

1 too, is being referred to the Zoning Board.

2 MR. SAGARIA: Uh-huh.

3 MR. CAMPBELL: There's a lot of intricate parts
4 of this whole thing which you probably already know.

5 MR. SAGARIA: Yeah. It's exhausting.

6 MR. CAMPBELL: So that was sort of held back
7 because we were still figuring out what is supposed to be
8 there, what's not supposed to be there.

9 MR. SAGARIA: Yeah. Yeah.

10 MR. CAMPBELL: So it really has been referred
11 to the Zoning Board because now they're the -- because
12 they're the ones that originally approved --

13 MR. SAGARIA: The special storage.

14 MR. CAMPBELL: -- the stuff and, you know. So
15 they have to, you know, now sort of detail it out, like
16 what is allowed to be there.

17 MR. CAMPBELL: Yeah. See, because my -- my
18 trailer is on wheels. That's why when I asked for --

19 MR. CAMPBELL: It doesn't matter.

20 MR. SAGARIA: You know, I just --

21 MR. CAMPBELL: From my understanding -- from my
22 understanding, your trailer shouldn't even be there.

23 MR. SAGARIA: No, because I called. When I --
24 when I first installed it, you know, years ago, like five
25 or six years ago --

SAGARIA/CAMPBELL, Phone Conversation

1 MR. CAMPBELL: Hm-hmm.

2 MR. SAGARIA: -- I called them, and they made
3 us get an electrical inspection because it was on wheels.
4 And also that tent I put up because it wasn't fastened to
5 the ground.

6 MR. CAMPBELL: Yeah.

7 MR. SAGARIA: I asked them --

8 MR. CAMPBELL: So a lot of the stuff and the
9 storage and all that, that's all got to be hashed out at
10 the Zoning Board, and --

11 MR. SAGARIA: So is there -- is it -- it before
12 -- is there a hearing scheduled on the Zoning Board at
13 this time?

14 MR. CAMPBELL: I do not know. I know it was
15 referred to them. So then it would be up to the property
16 owner, which I think Vincent was taking the lead, to take
17 -- you know, to go.

18 MR. SAGARIA: Yeah.

19 MR. CAMPBELL: You know, somebody has got to
20 go.

21 MR. SAGARIA: So how do I find out if it was
22 scheduled?

23 MR. CAMPBELL: And, again, I don't know --

24 MR. SAGARIA: I didn't even know that it was --
25 he's doing this behind my back, sir, you know.

1 because I know it takes time.

2 MR. CAMPBELL: Yeah. Because, like I said,
3 that -- the big thing is to, you know, to really clarify
4 what is supposed to be there, what is allowed to be there
5 as far as the approvals, or are they going to grant a new
6 approval or, you know, what.

7 MR. SAGARIA: Right. Right. Okay. All right.
8 Thank you so much, sir, for calling me back. I
9 appreciate it.

10 MR. CAMPBELL: All right. You're welcome.

11 MR. SAGARIA: Bye.

12 MR. CAMPBELL: You have a good one.

13 - o0o -

14 CERTIFICATION

15 I, Jeanette Carelli, certify the foregoing transcript of a
16 phone conversation was prepared using the required electronic
17 equipment and is a true and accurate transcript of the
18 recording.

Jeanette Carelli

19 Jeanette Carelli

20 Carelli Transcription Services

21 26294 East Old Gate Drive

22 Millsboro, Delaware 19966

23 Dated: June 22, 2023

24

25

7.8

ZONING

185 Attachment 7

Town of Newburgh

Table of Use and Bulk Requirements

R-1 District - Schedule 3

[Amended 9-23-1998 by L.L. No. 10-1998; 4-8-2000 by L.L. No. 2-2000; 4-21-2008 by L.L. No. 2-2008; 4-9-2018 by L.L. No. 3-2018]

| A. Accessory Uses | B. Permitted With | C. Permitted Uses | D. Uses Subject to Site Plan Review by the Planning Board | Minimum Required | | | | | | Maximum Permitted | | | | |
|--|--------------------------------------|--|---|---------------------------------|----------------------|------------------|-------------------|------------------|--------------------|-----------------------|--|---------------------------------|------------------------|--------------------------------|
| | | | | Lot Area (square feet) | Lot Width (feet) | Lot Depth (feet) | Front Yard (feet) | Rear Yard (feet) | 1 Side Yard (feet) | Back Side Yard (feet) | Habitable Floor Area Per Dwelling Unit (square feet) | Lot Building Coverage (percent) | Building Height (feet) | Lot Surface Coverage (percent) |
| 1. Home occupations 4 vehicles | C1-3, D2 D2-7 | 1. Single-family dwellings, not to exceed 1 dwelling unit per lot 2. (Reserved) | | 40,000 | 150 | 150 | 50 | 40 | 30 | 80 | 1,500 | 10% | 35 | 20% |
| 2. Private garage or carport for not more than 4 vehicles | C1-3 D2-7 | 3. (Reserved) | | NA | NA | NA | NA | NA | NA | NA | NA | 20% | 35 | 50% |
| 3. Garden house, isolated, wading or swimming pool, or tennis court, in accordance with § 185-43 | C1 and 2 D2-6 | 4. Municipal buildings and town activities. | | 40,000/ 20,000 ¹ | 150 | 150 | 50 | 40 | 30 | 80 | 2,000/1,000 ² | 10% | 35 | 20% |
| 4. Signs in accordance with § 185-14 | C1-3, D2 C4, D3 and 4 C3, D1-6 | | 1. Conversion of existing dwellings for wholly use in accordance with § 185-25 | NA | NA | NA | NA | NA | NA | NA | 1,500 | 10% | 35 | 20% |
| 5. Keeping up to 5 (total) dogs or cats over 6 months of age | C1 and 2 D2 | | 2. Cluster developments in accordance with § 185-26 | 10 acres | 300 | 300 | 200 | 200 | 200 | 400 | NA | 15% | 35 | 30% |
| 6. Keeping up to 2 horses on a lot of 2 acres or more | C1-3 D2 and 3 | | 3. Membership clubs providing recreational facilities in accordance with § 185-29 | 2 acres | 200 | 200 | | 60 | | | NA | 15% | | 30% |
| 7. Off-street parking as required by the principal use | All | | 4. Places of worship, related parish houses, seminaries, dormitories and related activities | 60,000 | 150 | 150 | 50 | 50 | 50 | 100 | 1,000 plus 100 per person | 20% | 35 | 40% |
| 8. Separate living quarters within the permitted structure for persons employed on the premises | C1 D2-6 | | 5. Substance abuse rehabilitation home | 5 acres | 200 | 200 | 50 | 0 ³ | 50 | 100 | NA | 40% | 40 | 80% |
| 9. Accessory apartments in accordance with § 185-38 ⁴ | C1 and 2 D2 | | 6. Community residence for the disabled | NA | NA | NA | NA | NA | NA | NA | NA | 20% | 35 | 40% |
| 10. Satellite earth stations in accordance with § 185-40 | C1-3 D2-6 | | 7. Marine in accordance with § 185-34 | 100,000 | 200 | 150 | 50 | 40 | 30 | 80 | 1,500 | 10% | 35 | 20% |
| 11. Nursery school or day care | D2 | | 8. Public utility structures and rights-of-way | 100,000/ 50,000 ⁵ | 200/100 ¹ | | | | 30/40 ¹ | 80/40 ¹ | | | | |
| 12. Townhome in accordance with § 185-34(B), in the Marina Townhome Overlay District only | D7 | | 9. 2-family dwellings, not to exceed 2 dwelling units per lot 10. Semidetached dwellings, not to exceed 2 dwelling units per lot | | | | | | | | | | | |

NOTES:
 1 Conventional semidetached (two dwelling units per lot), zero lot line (one dwelling unit per lot).
 2 Forty thousand square foot for first dwelling unit, 20,000 square foot each additional dwelling unit.
 3 First dwelling unit, 2,000 square foot; each additional dwelling unit, 1,000 square foot.
 4 "Lot" applies to the overall parcel.
 5 No setback required at shoreline.

6 sides

ZONING

185 Attachment 11

Town of Newburgh

Table of Use and Bulk Requirements

B District - Schedule 7

Table of Use and Bulk Requirements

[Amended 9-23-1998 by L.L. No. 10-1998; 1-20-2009 by L.L. No. 2-2009; 2-10-2014 by L.L. No. 2-2014; 12-29-2014 by L.L. No. 13-2014; 4-9-2018 by L.L. No. 5-2018; 4-9-2018 by L.L. No. 2-2018; 5-27-2020 by L.L. No. 2-2020; 1-23-2023 by L.L. No. 1-2023]

| A. Accessory User | B. Permitted With | C. Permitted Uses | D. Uses Subject to Site Plan Review by the Planning Board | Minimum Required | | | | | | Maximum Permitted | | | | |
|---|---|--|---|--------------------|------------------|------------------|-------------------|------------------|--------------------|------------------------|--|-------------------------|---------------------------------|------------------------|
| | | | | Lot Area (sq. ft.) | Lot Width (feet) | Lot Depth (feet) | Front Yard (feet) | Rear Yard (feet) | 1 Side Yard (feet) | Both Side Yards (feet) | Habitable Floor Area Per Dwelling Unit (square feet) | Dwelling Units Per Acre | Lot Building Coverage (percent) | Building Height (feet) |
| 1. Home occupations. | C1 and 2 | 1. Existing single-family dwellings: a. Without both public sewer and public water systems b. With both public sewer and public town water systems c. With either public sewer or public water only | Uses Subject to Site Plan Review by the Planning Board | 20,000 | 125 | 150 | 40 | 40 | 15 | 30 | NA | 25% | 35 | 50% |
| 2. Private garage or carport for not more than 4 vehicles | C1, 2, 4 and 5 D1-12 | 2. Building 2-family dwellings: a. Without both public sewer and public water systems b. With both public sewer and public town water systems c. With either public sewer or public water only | | 15,000 | 100 | 125 | 50 | 50 | 25 | 50 | 900 | 25% | 35 | 50% |
| 3. Garden house, toolshed, windmill or swimming pool or tennis court in accordance with § 185-434 | C1, 2 and 4 | 3. Municipal buildings and town activities | | 17,500 | | | | | | | | | | |
| 4. Off-street parking as required by the principal use | All | 4. Membership clubs without outdoor recreation facilities in accordance with § 185-29 | | 30,000 | 150 | 175 | 40 | 40 | 15 | 30 | 900 | 25% | NA | |
| 5. Storage buildings up to 50% of the floor area of the principal building | D2 and 11 | 5. Funeral homes | | 22,500 | 125 | 150 | 50 | 50 | 25 | 50 | 900 | 25% | NA | |
| 6. Signs in accordance with § 185-14 a. Professional b. Business c. Institutional d. Identification | C1 and 2, D2, D17 CS, D1, D7, D9-12, D18 C3 and 4, D10 CS-5 D1-7, D9-12, D18 | 6. Retail stores and personal service stores and uses, health clubs and fitness facilities, cannabis retail dispensaries in accordance with § 185-46.9 and cannabis medical dispensaries in accordance with § 185-48.3 | | 25,000 | 150 | 175 | 40 | 40 | 15 | 30 | 900 | 25% | NA | |
| 6a. Signs in accordance with § 185-14.1 | D8 | 7. Motor vehicle service stations and public garages, car washes and car detailing in accordance with § 185-50 | | | | | | | | | | | | |
| 7. Keeping up to 5 (total) dogs or cats over 6 months of age | C1 C2 | 8. Motor vehicle service stations and public garages, car washes and car detailing in accordance with § 185-50 | | 15,000 | 100 | 125 | 40 | 40 | 15 | 30 | 900 | 40/60% | 35 | 80/85% |
| 8. Off-street parking for commercial vehicles in accordance with § 185-13 | D1-9, 11 and 12 | 9. Hotels and motels in accordance with § 185-27 | | 20,000 | | | | | | | | | | |
| 9. Accessory apartments in accordance with § 185-35 | C1 and 2 | 10. Shopping centers | | | | | | | | | | | | |
| 10. Fuel tanks in accordance with § 185-39 | D2, 5, 11 and 12 | 11. Theaters | | 5 acres | 200 | 200 | 50 | 50 | | | | 25% | 50 | 60% |
| 11. Small earth stations in accordance with § 185-40 | C1-3 and 5 D1-12 | 12. Places of worship, parish houses, synagogues, convents, dormitories and related activities | | 5 acres | 300 | 300 | 60 | 60 | | | | 30% | 40 | 80% |
| 12. Childcare and clinics for employees | D2 and 12 | 13. Affordable housing in accordance with § 185-47 | | 3 acres | 300 | 300 | 60 | 60 | | | | 30% | 40 | 80% |
| 13. Restaurants and conference and banquet facilities | D2, 7 and 11 | 14. Senior citizen housing in accordance with § 185-48 | | 2 acres | 200 | 200 | 50 | 50 | 50 | 100 | | 25% | 40 | 50% |
| 14. Retail outlets | D11 | 15. Restaurants | | 10 acres | 400 | 400 | 60 | 60 | | | | 25% | 40 | 50% |
| 15. Car wash | D5 and 6 | | | NA | NA | NA | NA | NA | NA | NA | 20% | 35 | 50% | |
| 16. Motor vehicle rental agency | D5 and 7 | | | 40,000 | 150 | 150 | 50 | 50 | 15 | 30 | | 40% | 35 | 80% |

NEWBURGH TOWN CODE

| A. Accessory Uses 17. Eating and drinking facilities or food preparation shops not offering full table service | B. Permitted With D1, 4, 8, 9 and 16 | C. Permitted Uses | D. Uses Subject to Site Plan Review by the Planning Board 16. Mini-malls 17. Veterinarian offices and related services necessary for the complete practice of veterinarian medicine in accordance with § 185-43. 18. Nursery school for pre-school children registered with NYS Department of Education and day-care center licensed by NYS OCTES, in accordance with § 185-48.8 | Minimum Required | | | | | | Maximum Permitted | | | | |
|--|--|----------------------|--|------------------------|------------------|------------------|-------------------|------------------|--------------------|------------------------|--|-------------------------|---------------------------------|------------------------|
| | | | | Lot Area (square feet) | Lot Width (feet) | Lot Depth (feet) | Front Yard (feet) | Rear Yard (feet) | 1 Side Yard (feet) | Both Side Yards (feet) | Habitable Floor Area Per Dwelling Unit (square feet) | Dwelling Units Per Acre | Lot Building Coverage (percent) | Building Height (feet) |
| | | | | 2 acres | 200 | 200 | 40 | 50 | 30 | 60 | | 40% | 35 | 80% |
| | | | | 40,000 | 150 | 150 | 40 | 40 | 30 | 60 | NA | 30% | 35 | 60% |
| 18. Cargo storage containers in accordance with § 185.15.1 | D2 and 11 | | | 1 acre | 150 | 150 | 50 | 50 | 40 | 80 | NA | 20% | 35 | 40% |

NOTES:
 1. Forty without public water and sewer; 60 with public water and sewer.
 2. Forty without public water and sewer; 50 with public water and sewer.
 3. Minimum 1,500 square feet of lot area per guest room.
 4. Also requires a special permit from the Zoning Board of Appeals.

EXHIBIT B
10 PAGES

TOWN OF NEWBURGH

Crossroads of the Northeast

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

September 26, 2002

OFFICE OF ZONING BOARD
(845) 566-4901

CASTLE USA,
382 Rock Cut Road
Section 11, Block 1, Lot 60.2
R-1 Zone

Applicant is seeking to permit maintenance of mobile/modular home on premises located at 382 Rock Cut Road in the Town of Newburgh.

The Decision and Resolution of the Zoning Board dated November 10, 1982 states that there shall be no new or additional structures introduced to said premises, any office use being conducted within the existing structural improvements.

All mailings were in order.

James Raab of the engineering firm of Vincent J. Doce Associates, represented applicant at the hearing.

Mr. Raab stated that he was here to represent applicant to expand their use variance on the site located within 154 acres one-half mile north of Orange Lake. The nearest house on Rock Cut Road is approximately 2700 feet. The nearest structure at Camp Redwood would be about 1600 feet, on East Rock Cut about 2000 feet with the nearest house about 1600 feet and the nearest house on Greenshire Way about 1400 feet.

Mr. Raab continued the bunkers got a variance in 1982 stating that all business would be done inside the bunkers. Due to the new ATF regulations it was better to move the records out of the bunker. They tried a construction trailer but that was too small so they hired a contractor to erect a double wide 48x28 mobile home style building located approximately 90 feet off the southerly boundary and 89 feet off the westerly boundary. The original variance only allowed for operation out of the bunkers. We are here tonight for the two trailers and the pads upon which the shipping containers are located. Five are permanent. There could be as many as eight on the site at one time. Some of them are empty, some do hold fireworks. The five that are on the site all the time do hold fireworks. The three additional containers are usually empty or half empty.

Mr. McKelvey asked when the building was put up.

Mr. McKelvey stated it would have to be inspected.

James Raab of Vincent J. Doce Associates, who was present stated he just wanted to make a correction to that. We have uncovered a septic system that was wide enough to supply an office facility. We did not design nor did we install the system but we did go to backup and uncovered all laterals and a septic tank that is the correct size for what they will be using it for. They are aware of it and we would supply them with an As-Built at any time. That is usually just before they get a Certificate of Occupancy, they ask for an As-Built.

Mr. Maher asked if it were fully operational.

Mr. Raab replied that it was fully operational. We inspected it three times. Once at the request of the applicant. Once at the request of Code Compliance and once ourselves to see that it was still working properly.

Mrs. Eaton asked when was the last inspection.

Mr. Raab replied March right after the thaw.

Mrs. Cardone asked if there were any other questions from the Board. There being no response, she declared this part of the hearing closed.

Submitted by:

Mary Salantrie, Secretary
Zoning Board of Appeals

/ms

After consultation with the Board's attorney, Mrs. Cardone asked if there were discussion on this application. Mr. Galli stated he thought they finally met all the criteria. Mrs. Cardone stated that this is an unlisted action under Seqra. and asked if there were motion for a negative declaration. Mr. Maher made a motion. Mr. Galli seconded the motion. All were in favor. Mrs. Cardone asked if there were a motion to approve this application. Mr. Galli made a approve the application. Mr. McKelvey seconded the motion. Mrs. Cardone all those in favor to please say "aye". All Board members who were present approved by saying "aye". Board members Paul Blanchard and Richard Harris were absent. The motion was carried.