

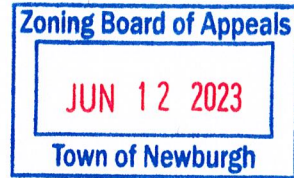


TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS

21 Hudson Valley Professional Plaza
Newburgh, NY 12550



OFFICE OF ZONING BOARD

TELEPHONE 845-566-4901

FAX LINE 845-564-7802

APPLICATION

DATED: 7/11/23

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

I (WE) Castle USA Corp / July 4 Ever PRESENTLY
RESIDING AT NUMBER 382 Rock Cot Rd, Newburgh, NY.
TELEPHONE NUMBER 917 468 9142

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

- USE VARIANCE
- AREA VARIANCE (S)
- INTERPRETATION OF THE ORDINANCE
- ~~SPECIAL PERMIT~~ Appeal of Code Compliance

1. LOCATION OF THE PROPERTY:

11-1-60.2 (TAX MAP DESIGNATION)
382 Rock Cot Road (STREET ADDRESS)
R-2 (ZONING DISTRICT)

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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUB-SECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

#1 185-37 #4 185-7-F
#2 185-19 #5 185-15.1-B
#3 185-19 #6 185-13-F

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:

6/9/23

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: Interpretation based on ZBA decisions of 11/10/82; 9/25/03; 3/2004. See Attachment # 1

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:

(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:

- 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:

- c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

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

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

7. ADDITIONAL REASONS (IF PERTINENT):

*Use and Area Variances will abide
the interpretation and Code Compliance
Department's*

Vincent Esposito
PETITIONER (S) SIGNATURE
Vincent Esposito

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 17th DAY OF July 2023

Gerald N. Jacobowitz
NOTARY PUBLIC
GERALD N. JACOBOWITZ 1940075
Notary Public, State of New York
Qualified in Orange County
My Commission Expires Feb. 28, 2026

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.

(ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 13 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE NIGHT OF THE MEETING).

(NOTE: BOARD MEMBERS MAKE SITE VISITS TO ALL THE PROPERTIES)

TOWN OF NEWBURGH
ZONING BOARD OF APPEALS

PROXY

Vincent Esposito, DEPOSES AND SAYS THAT
HE/SHE RESIDES AT 382 Rock Ct Rd Newburgh
IN THE COUNTY OF Orange AND STATE OF NY
AND THAT HE/SHE IS THE OWNER IN FEE OF Tax map
11-1-60.2 Sec-Pres of

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED Gerald N. Jacobowitz
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 7/13/23 [Signature]

OWNER'S SIGNATURE

[Signature]
WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 13th DAY OF July 20 23

[Signature]
NOTARY PUBLIC

MARCIA A. JACOBOWITZ
Notary Public, State of New York
No. 4877911
Qualified in Orange County
Commission Expires Nov. 3, 2024

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

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

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
July 4 Ever			
Name of Action or Project: 382 Rock Cut Rd.			
Project Location (describe, and attach a location map):			
Brief Description of Proposed Action: ZBA interpretation of use variances and code compliance			
Name of Applicant or Sponsor: Castle USA Corp		Telephone: 917 468 9142	
		E-Mail:	
Address: 382 Rock Cut Road			
City/PO: Newburgh		State: NY	Zip Code: 12586
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		144.43 acres	
b. Total acreage to be physically disturbed?		6 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		N/A acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation service(s) available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: <u>well</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: <u>septic</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Castle USA Corp</u>	Date: <u>7/11/23</u>	
Signature: <u>[Handwritten Signature]</u>		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE



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

LOUIS CINQUEGRANA
TO
CASTLE U.S.A. CORP.

SECTION 11 BLOCK 1 LOT 60.2

RECORD AND RETURN TO:
(Name and Address)

Serpico & Serpico
105 Court Street - Suite 500
Brooklyn, New York 11201

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

2001165

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED MORTGAGE SATISFACTION ASSIGNMENT OTHER

PROPERTY LOCATION

- | | |
|---|--|
| <input type="checkbox"/> 2089 BLOOMING GROVE (TN) | <input type="checkbox"/> 4289 MONTGOMERY (TN) |
| <input type="checkbox"/> 2001 WASHINGTONVILLE (VLG) | <input type="checkbox"/> 4201 MAYBROOK (VLG) |
| <input type="checkbox"/> 2289 CHESTER (TN) | <input type="checkbox"/> 4203 MONTGOMERY (VLG) |
| <input type="checkbox"/> 2201 CHESTER (VLG) | <input type="checkbox"/> 4205 WALDEN (VLG) |
| <input type="checkbox"/> 2489 CORNWALL (TN) | <input type="checkbox"/> 4489 MOUNT HOPE (TN) |
| <input type="checkbox"/> 2401 CORNWALL (VLG) | <input type="checkbox"/> 4401 OTISVILLE (VLG) |
| <input type="checkbox"/> 2600 CRAWFORD (TN) | <input checked="" type="checkbox"/> 4600 NEWBURGH (TN) |
| <input type="checkbox"/> 2800 DEERPARK (TN) | <input type="checkbox"/> 4800 NEW WINDSOR (TN) |
| <input type="checkbox"/> 3089 GOSHEN (TN) | <input type="checkbox"/> 5089 TUXEDO (TN) |
| <input type="checkbox"/> 3001 GOSHEN (VLG) | <input type="checkbox"/> 5001 TUXEDO PARK (VLG) |
| <input type="checkbox"/> 3003 FLORIDA (VLG) | <input type="checkbox"/> 5200 WALLKILL (TN) |
| <input type="checkbox"/> 3005 CHESTER (VLG) | <input type="checkbox"/> 5489 WARWICK (TN) |
| <input type="checkbox"/> 3200 GREENVILLE (TN) | <input type="checkbox"/> 5401 FLORIDA (VLG) |
| <input type="checkbox"/> 3489 HAMPTONBURGH (TN) | <input type="checkbox"/> 5403 GREENWOOD LAKE (VLG) |
| <input type="checkbox"/> 3401 MAYBROOK (VLG) | <input type="checkbox"/> 5405 WARWICK (VLG) |
| <input type="checkbox"/> 3689 HIGHLANDS (TN) | <input type="checkbox"/> 5600 WAWAYANDA (TN) |
| <input type="checkbox"/> 3601 HIGHLAND FALLS (VLG) | <input type="checkbox"/> 5889 WOODBURY (TN) |
| <input type="checkbox"/> 3889 MINISINK (TN) | <input type="checkbox"/> 5801 HARRIMAN (VLG) |
| <input type="checkbox"/> 3801 UNIONVILLE (VLG) | |
| <input type="checkbox"/> 4089 MONROE (TN) | |
| <input type="checkbox"/> 4001 MONROE (VLG) | |
| <input type="checkbox"/> 4003 HARRIMAN (VLG) | |
| <input type="checkbox"/> 4005 KIRYAS JOEL (VLG) | |

CITIES

- | |
|---|
| <input type="checkbox"/> 0900 MIDDLETOWN |
| <input type="checkbox"/> 1100 NEWBURGH |
| <input type="checkbox"/> 1300 PORT JERVIS |
| <input type="checkbox"/> 9999 HOLD |

NO. PAGES 4 CROSS REF
CERT. COPY ADD'L X-REF
MAP # PGS.
PAYMENT TYPE: CHECK
CASH
CHARGE
NO FEE

CONSIDERATION \$ 222500
TAX EXEMPT

MORTGAGE AMT \$
DATE

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: C.T.I.

STATE OF NEW YORK, COUNTY OF ORANGE ss:
I, Kelly A. Eskew, 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 7/19/2000 and the same is a correct transcript thereof in witness whereof, I have hereunto set my hand and affixed my official seal 07/06/2023.

Kelly A. Eskew
County Clerk & Clerk of the Supreme County Courts
Orange County

LIBER 5332 PAGE 143

LIBER 5332 PAGE 143

ORANGE COUNTY CLERKS OFFICE 39881 MRL
RECORDED/FILED 07/19/2000 10:29:25 AM
FEES 47.00 EDUCATION FUND 5.00
SERIAL NUMBER 011447
DEED CNTL NO 59404 RE TAX 890.00

BARGAIN & SALE DEED WITH COVENANT AGAINST GRANTOR'S ACT

THIS INDENTURE, made the 22nd day of May, Two Thousand

Between **Louis Cinquegrana** residing at 2077 Center Avenue, Fort Lee, New Jersey 07024,
party of the first part,

and

Castle U.S.A. Corp., a domestic corporation maintaining an office for the transaction of
business at 6505 15th Avenue, Brooklyn, New York 11219, party of the second part,

Witnesseth, that the party of the first part, in consideration of Ten Dollars 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 of his right title and interest in and to

All that certain plot, piece or parcel of land situate, together with the improvements situate therein, lying and being in the State of New York, County of Orange and Town of Newburgh being designated as Lot No. 2 on a map entitled "Subdivision Plan lands of Estmar Corporation" dated September 26, 1986 and last revised November 28, 1986 being more particularly set forth and described upon the annexed Schedule A.

Being Town of Newburgh Tax map parcel 11-1-60.2

Being the same premises described in a deed from East Coast Novelty Company, Inc. to Louis Cinquegrana dated September 27, 1999 and recorded on November 8, 1999 in Orange County Clerk Deed Liber 518[at page 47.

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

Together with the appurtenances and all of 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

LAWYERS TITLE INSURANCE CORPORATION

Title No. 2001165

SCHEDULE A

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Newburgh, County of Orange, State of New York, being designated as Lot No. 2 on a map entitled "Subdivision Plan Lands of Estmar Corporation", dated September 26, 1986 and last revised November 28, 1986, said Map filed in the Orange County Clerk's Office as Map No. 8173, being more particularly bounded and described as follows:

BEGINNING at a point, said point being the southeasterly corner of Lot No. 2 described herein, said point also being the following three (3) courses, from the intersection of the northerly line of lands now or formerly of Trestyn with the centerline of an existing road, thence along the centerline of said existing road, North 12 degrees 13' 39" East 404.79 feet and North 11 degrees 52' 00" East 395.98 feet to a point on the division line between Lot No. 1 and Lot No. 2 as shown on the above mentioned map; thence South 84 degrees 53' East 17.98 feet to said point of beginning; thence along the division line between Lot No. 1 of the above mentioned map, on the south, west, north and east and Lot No. 2 herein described on the north, east, south and west the following five (5) courses, (1) North 84 degrees 53' West 215.00 feet, (2) North 5 degrees 27' East 1058.24 feet, (3) South 85 degrees 01' East 250.00 feet, (4) South 5 degrees 15' West 729.67 feet and (5) South 11 degrees 57' West 331.45 feet to the point or place of beginning.

TOGETHER with the use of an access easement shown as parcel 5 in Liber 2396 page 206.

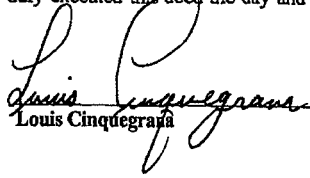
TOGETHER with a 50 foot R.O.W. and easement as shown on the map of lands of Estmar Corporation, prepared by Vincent J. Doce, P.L.S. 044604 dated September 28, 1986 and last revised November 28, 1986. Said R.O.W. and easements are subject to a maintenance and liability agreement dated December 30, 1986. Said agreement shall be considered as a covenant running with the land and shall be binding upon the future owners of the parcel of land as described above.

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 reads "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:



Louis Cinquegrana

STATE OF NEW JERSEY)

.SS

COUNTY OF BERGEN)

On May 22, 2000 the before me, the undersigned, personally appeared Louis Cinquegrana, 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 he executed the same in his capacity, that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in State of New Jersey and County of Bergen.


Notary Public

CONCETTA L. PONCE DE LEON
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Aug. 27, 2001

LIBER 5332 PAGE 146



ORANGE COUNTY CLERK

KELLY A. ESKEW

Receipt

Receipt Date: 07/06/2023 01:34:10 PM

RECEIPT # 3177836

Recording Clerk: PF

Cash Drawer: CASH35

Rec'd Frm: VINCENT

CC DEED

Misc Fees

COPY CHARGES \$5.00

Receipt Summary

TOTAL RECEIPT: ----> \$5.00

TOTAL RECEIVED: ----> \$5.00

CASH BACK: ----> \$0.00

PAYMENTS

Cash -> \$5.00

Jacobowitz & Associates Law Firm, LLP

Gerald N. Jacobowitz, Esq.
Telephone: (914) 475-7778
Email: gntj@jacobowitzassoclaw.com

PO Box 366
Walden, New York 12586

Marcia A. Jacobowitz, Esq.
Telephone: (845) 707-3938
(914) 213-5176
Email: maj@jacobowitzassoclaw.com

July 10, 2023

Hon. Chair and Members
Zoning Board of Appeals
Town of Newburgh

HAND DELIVERED

RE: July 4Ever
Castle USA Corp.

Dear Chair and Members:

Transmitted herewith as appeals to your Board are the following:

1. Check for \$250.00 as fee for Interpretation;
2. Check for \$250.00 as fee for Code Compliance Determination and /or variance;
3. Completed Application form;
4. Various exhibits as identified in the Application;
5. Statement of the case; and
6. Notice of Disapproval of BP.

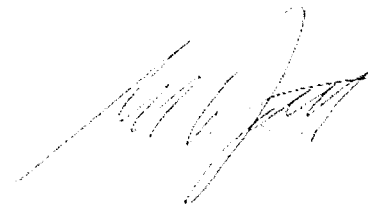
The historical facts, Town records disclosures, and the present circumstances present a challenging opportunity to clarify and correct the record in the name of compliance.

There are six (6) alleged non-compliance conditions to be addressed. They are identified on the list attached to the Application as numbers 1-6.

The statement of the case will address each of them as appropriate.

Thank you for your anticipated consideration.

Very truly yours,



Gerald N. Jacobowitz

cc: Mr. Vincent Esposito

ATTACHMENT #1 – JULY4-EVER

The Application to the ZBA comes within Subsection 104-2D(2) of Section 104-2 of Chapter 104 schedule of fees as follows:

- (f) ZBA interpretation of Code
- (g) Appeal of Code Compliance Determination

The Matters of Interpretation of the Code and the Appeal of Code Compliance Determination are these:

1. Is the structure denominated by the Town as “manufactured” home, for a “mobile Home?”
2. Is the structure a “modular Home?”
3. Is the structure on an “individual lot?”
4. Was the structure granted a BP that precluded prior use as residence?
5. Is the use of the structure as an office and as a residence prohibited?
6. Is a caretaker, custodian, security person, residential use as a condition of employment prohibited?
7. Is a caretaker, custodian, security person residential use as a condition of employment an accessory use to the principal use?
8. Is use of the structure by a caretaker, custodian, security person as a residence a reasonable means of satisfying a condition of use approval requiring security?
9. Are reasonable, customary, necessary, common uses, activities, operations incidental to the principal use a violation of the designation of property for a use variance? Is it an enlargement of the use? Is it an extension of the use?
10. Are such uses if not inherently or expressly enumerated, but are otherwise implied or authorized a violation of the designed use? Is it an enlargement of the use? Is it an extension of the use?
11. Is an increase in volume an enlargement of a principal use?
12. Is an increase in volume an extension of a principal use?

13. What use and dimensional (Bulk) tables apply to the use for which the 6 acre variance was granted to engage in the business of fireworks storage, vending and distribution?

14. Is use of a portion of the structure as separate living quarters within a permitted structure for persons employed on the premises? R-2 Table of uses A-9.

15. Is use of the mobile home as a residence allowed in the R-2 zone? R-2 Table of uses C single family.

16. Does the ZBA decision of September 25, 2003 granting the application dated September 17, 2002, submitted September 26, 2002 resolve the alleged violation of Code Section 185-37, since the variance application in paragraph 4, expressly identifies the structure as a “double wide mobile home,” thereby granting a variance from any prohibition?

17. Since the term “Modular Office” in the Building Permit O-19886 is a misnomer, since it was not what was applied for nor what the ZBA approved, should it be amended nunc pro tunc to grant what was applied for and approved.

18. Since a CO fee of \$15.00 was paid previously and subsequently on or about February 24, 2023, a Certificate of Occupancy should be issued for what was applied for and for what the ZBA decision approved.

19. What is definition of “Retail”?

20. What is definition of “Manufactured Home”?

STATEMENT OF THE CASE

This property has been the subject of three (3) use variance decisions since November 10, 1982, then September 25, 2003 and again March, 2004.

The initial variance of November 10, 1982, contained six (6) conditions that applied to a discreet defined six (6) acre portion of a larger 144.43 acre parcel. The application that was approved is described in the ZBA decision, paragraph 4.

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.

That approval had as Condition #2 as follows:

2. that there shall be no new or additional structures introduced to said premises, any office use being conducted within the existing structure improvements existing,

The granted variance of September 25, 2003 was for the application that expressly stated:

4. **DESCRIPTION OF VARIANCE SOUGHT:** The applicant is requesting expansion to a 1982 use variance which permitted the storage of fireworks in existing bunkers (3), but excluded any new or additional structures be added to the subject premises. July 4- Ever, the property tenant, would like to keep the double wide mobile home, construct trailer and 5 concrete pads on site to facilitate their fireworks storage operation.

The granted variance provided:

After consultation with the Board's attorney, Mrs. Cardone asked if there were discussions 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.

The variance granted March, 2004, provided:

VOTE:

Castle USA seeks an area variance to construct an accessory building exceeding the floor area and height limitations. The board did not see any problems, they showed their consistency with safety. This is a type 2 action under SEQR. A motion was made to approve this application, this was seconded and all were in favor.

Attached as Exhibits A, B and C, are the notices from the Town:

Exhibit A – Notice dated June 9, 2023 of Disapproval of BPA #3050-23;

Exhibit B – List of 6 Specific “Required Use Variance”, numbered 1-6 attached to Exhibit 1.

Exhibit C – Code Compliance report dated June 9, 2023

In discussing the issues we will refer to and use the numbers assigned by the Town in Exhibit B.

We are dividing the 6 into 3 groups.

VIOLATIONS 2, 3 AND 4

Three issues identified as numbers 2, 3 and 4 among the 6, pose threshold questions preparatory to framing a request for a variance;

2. 185-19. Since the existing approval was only for Class C Fireworks, are Class B fireworks an allowable use without a variance?

3. 185-19. Since the existing approval provided no new or additional structures could be introduced to the premises is the “additional office trailer” an allowable use without a variance?

4. 185-7-F. Since the existing approval provided no new or additional structures could be introduced to the premises, is the storage building an allowable use without a variance?

An answer to those will provide direction for this appeal.

VIOLATION 1

The violation Number 1 as to the so called “manufactured home” is addressed as follows:

1. There is no definition for a “manufactured home”, and accordingly there is no violation.
2. The property owner never asked for a permit for a “manufactured home” or “modular office”.
3. The property owner asked for a variance for a “mobile home”.
4. The ZBA decision of September 25, 2003, granted the property owner approval for the requested use.
5. The property is in a R-2 residential zone, Table of Uses C, where a single family residence is a permitted use.
6. The original intent and course of conduct was to inhabit the trailer as a residence.
7. The subsequent use of a portion of the trailer as an office did not supplant its use as a residence.
8. the site of the trailer home is not an “individual lot” but rather a homesite on a 144.43 acre parcel of property.
9. In a R-2 zone, Table of Uses A-9 the law provides as accessory: “Separate living quarters with the permitted structure for persons employed on the premises.”
10. The use variance of 1982 expressly requires security provisions. The on site residence of the officer of the property owner is a high level of required security.
11. The ZBA decision of September 25, 2003 granted the application dated September 17, 2002, submitted September 26, 2002 resolved the alleged violation of Code Section 185-37, since the variance application in paragraph 4, expressly identifies the structure as a “double wide mobile home,” the decision thereby granting a variance from any prohibition?

12. The term "Modular Office" in the Building Permit O-19886 is a misnomer, since it was not what was applied for nor what the ZBA approved and it should be amended nunc pro tunc to grant what was applied for and approved.

13. Since a CO fee of \$15.00 was paid previously and subsequently again on or about February 24, 2023, a Certificate of Occupancy should be issued for what was applied for and for what the ZBA decision approved.

VIOLATIONS 5 AND 6

It is respectfully requested that the matter of these two (2) violations be adjourned to the next available meeting of your board. These violations involve activities and operations that require expert testimony to aid and assist the property owner in pursuit of compliance and for your board to be accorded the facts and information relevant to the performance of your duty.

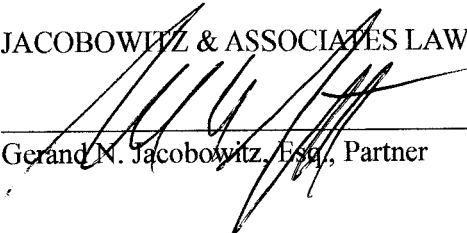
Further, an adverse decision as to non-compliance issues 2, 3 and 4 will require the marshalling of evidence, legal research and exhibits that require longer than the preparation time afforded between the notice of administrative action dated June 9, 2023, and this submission date.

The opportunity to prepare will assist in judicial economy, more efficient proceedings and clearer presentations.

Respectfully submitted,

JACOBOWITZ & ASSOCIATES LAW FIRM, LLP

BY:



Gerard N. Jacobowitz, Esq., Partner



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

3050-23

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Date: 06/09/2023

Application No. 05-19886

To: July 4 Ever
382 Rock Cut Rd
Walden, NY 12586

SBL: 11-1-60.2
ADDRESS: 382 Rock Cut Rd

ZONE: R1

PLEASE TAKE NOTICE that your application dated 01/24/2023 for permit to
Convert the existing manufactured office into a residence and enlarge and extended a non-
conforming use: _____ on the
premises located at 382 Rock Cut Rd is returned herewith and disapproved on the following grounds:

See the attached sheet for variances


Joseph Mattina

Cc: Town Clerk & Assessor (500')
File

382 Rock Cut Rd. Walden NY 12586

Required use variance:

Town of Newburgh Municipal Code:

- 1) **185-7-F: Unspecified uses:** (Residence)
 - Mobile homes on individual lots shall not be permitted in any district.
- 2) **185-19: Nonconforming uses.** A nonconforming use may continue indefinitely, subject to the following provisions: (Fireworks)
 - Alterations. A nonconforming use shall not be enlarged, extended, reconstructed or restored, except in accordance with Subsection 185-19 here, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.
- 3) **185-19: Nonconforming uses.** A nonconforming use may continue indefinitely, subject to the following provisions: (Additional office trailer)
 - Alterations. A nonconforming use shall not be enlarged, extended, reconstructed or restored, except in accordance with Subsection 185-19 here, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.
- 4) **185-7-F: Unspecified uses:**
 - Unspecified uses. Any use not specifically permitted shall be deemed to be prohibited. (Storage building in an R-1 zone)
- 5) **185-15.1-B: (Cargo containers)**
 - Cargo containers are not permitted to be used for accessory storage on property zoned residential or on property, the primary use of which is residential.
- 6) **185-13-E: Off street parking of commercial vehicles in a residential zone:**
 - Does not meet the requirements for this section. (Box trucks and trailers)

Town of Newburgh Code Compliance

OWNER INFORMATION **BUILT WITH OUT A PERMIT** / **NO**
NAME: Castle USA Corp. / Esposito / July 4 ever **Application #** 5-19886

ADDRESS: 382 Rock Cut Rd Walden NY 12586

PROJECT INFORMATION: AREA VARIANCE

TYPE OF STRUCTURE: Convert office into residence

SBL: 11-1-60.2 **ZONE:** R-1 **ZBA Application #** 3050-23

TOWN WATER: YES / **TOWN SEWER:** YES / N/A

	MINIMUM	EXISTING	PROPOSED	VARIANCE	VARIANCE PERCENTAGE
Manufactured home	Not permitted on a single lot / 185-37				
Class B Explosives / Fireworks	185-19-A-1 Extended a non-conforming use				
Additional office trailer	185-19-A-1 Extended a non-conforming use				
Membrane accessory structure	185-19-A-1 Extended a non-conforming use				
Cargo storage containers	185-19-A-1 Extended a non-conforming use				
Trailer storage and parking	185-19-A-1 Extended a non-conforming use				

INCREASING DEGREE OF NON-CONFORMITY - 185-19-C-1 YES / NO
 2 OR MORE FRONT YARDS FOR THIS PROPERTY YES / NO
 CORNER LOT - 185-17-A YES / NO

ACCESSORY STRUCTURE:
 GREATER THEN 1000 S.F. OR BY FORMULA - 185-15-A-4 YES / NO
 FRONT YARD - 185-15-A YES / NO
 STORAGE OF MORE THEN 4 VEHICLES YES / NO
 HEIGHT MAX. 15 FEET - 185-15-A-1 YES / NO
 10% MAXIMUM YARD COVERAGE - 185-15-A-3 YES / NO

NOTES:

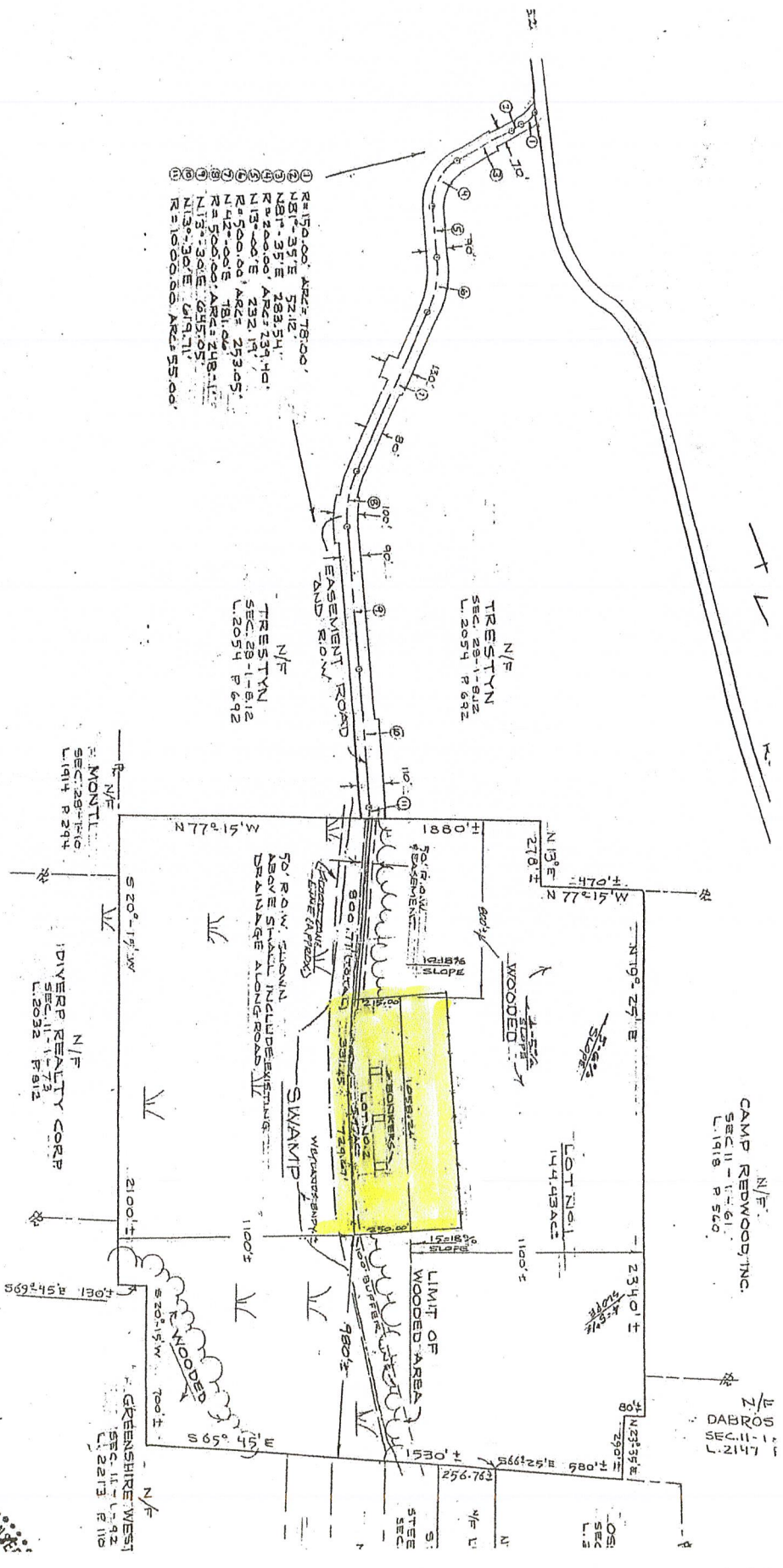
REVIEWED BY: Joseph Mattina **DATE:** 9-Jun-23



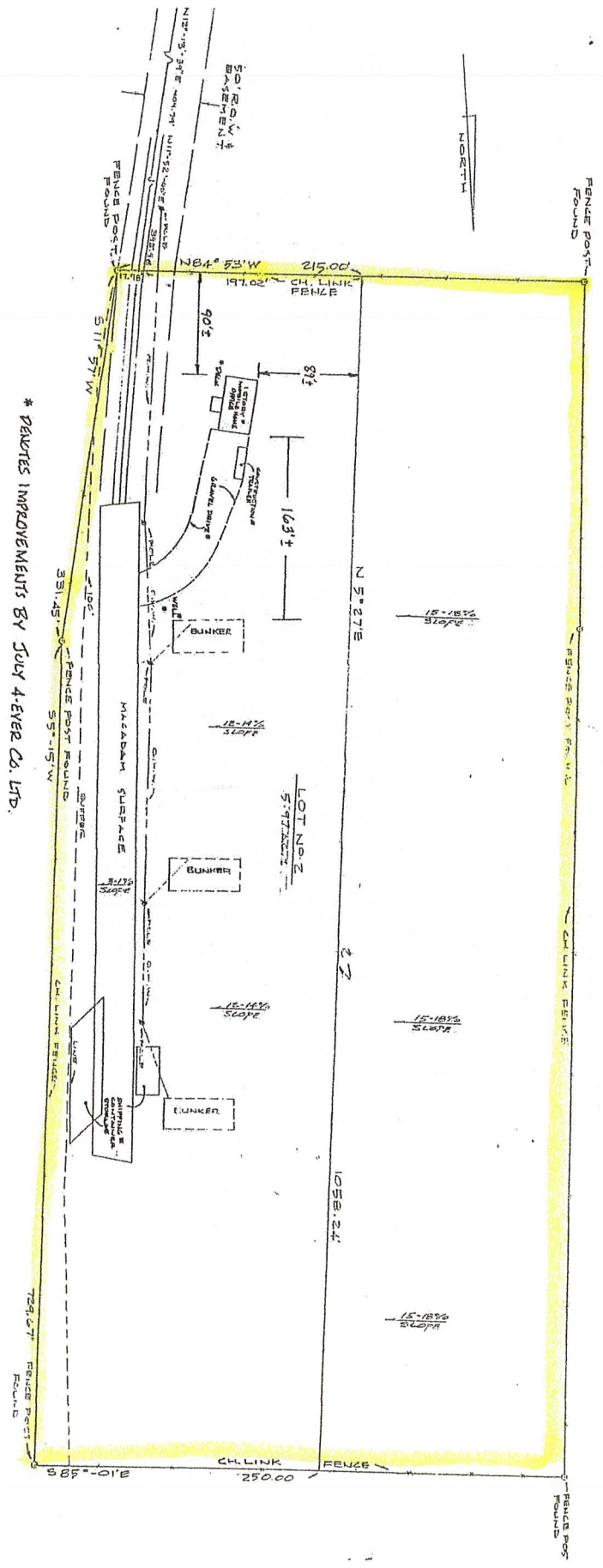
SITE SKETCH
 LANDS OF
CASTLE U.S.A. CORP.
 FOR
JULY 4-EVER CO. LTD
 2002, 3 or 4

COMPOSITE PLAN

OVERALL
 144.43 ACRES

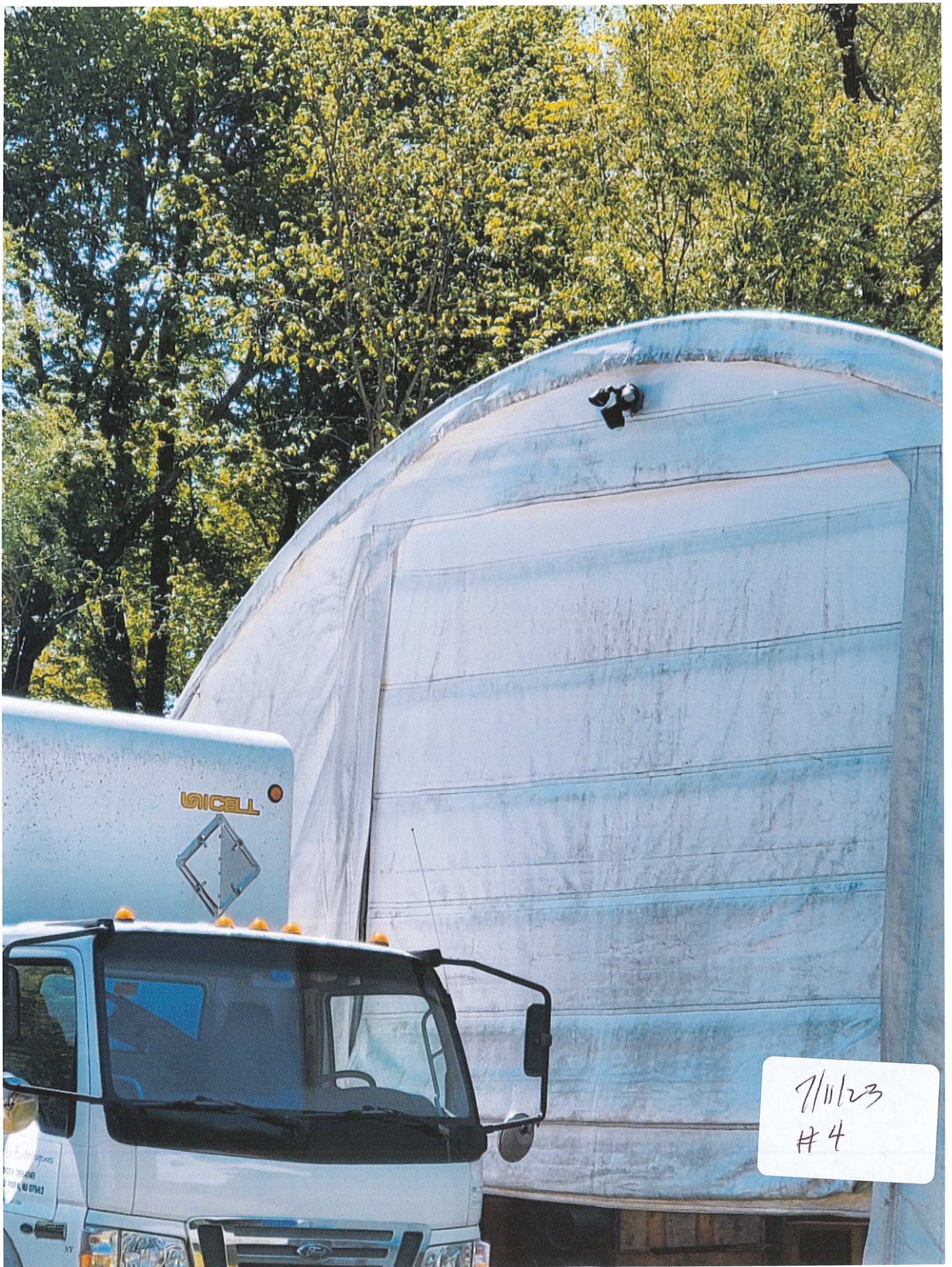


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CASTLE U.S.A. CORP.
 FOR
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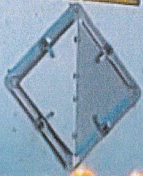


BLOWN UP PLAN
 6 ACRE AREA

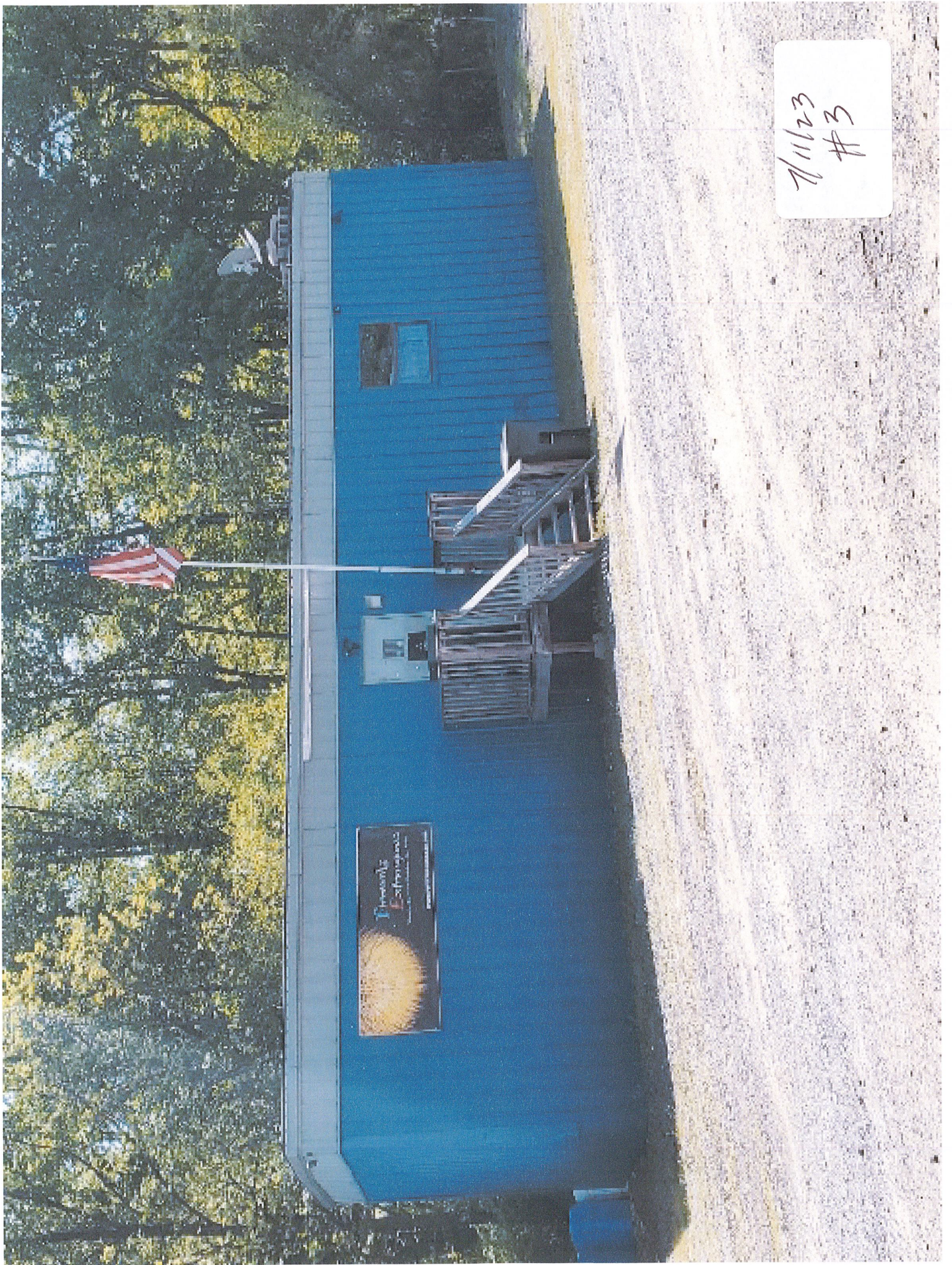




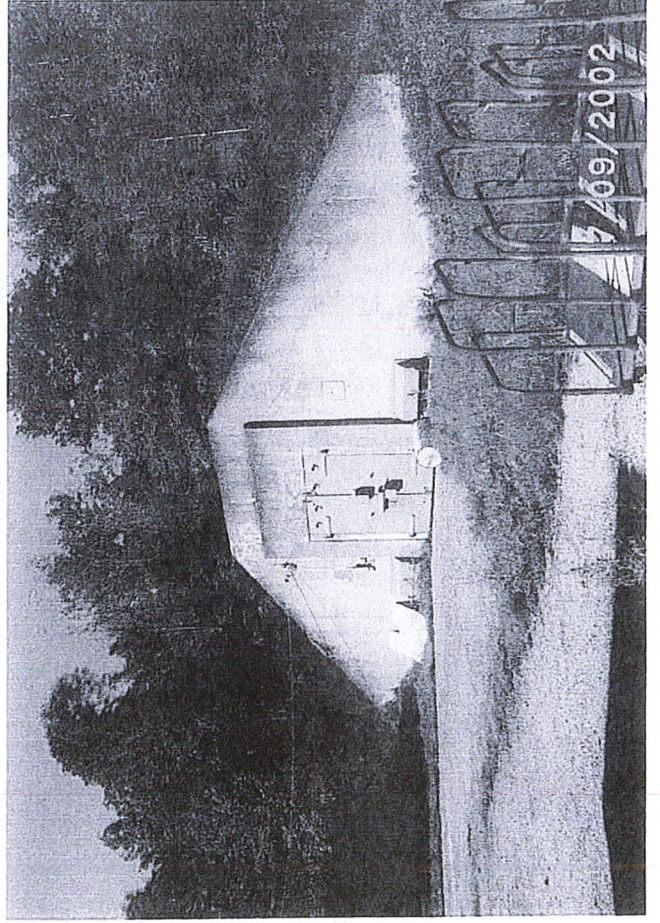
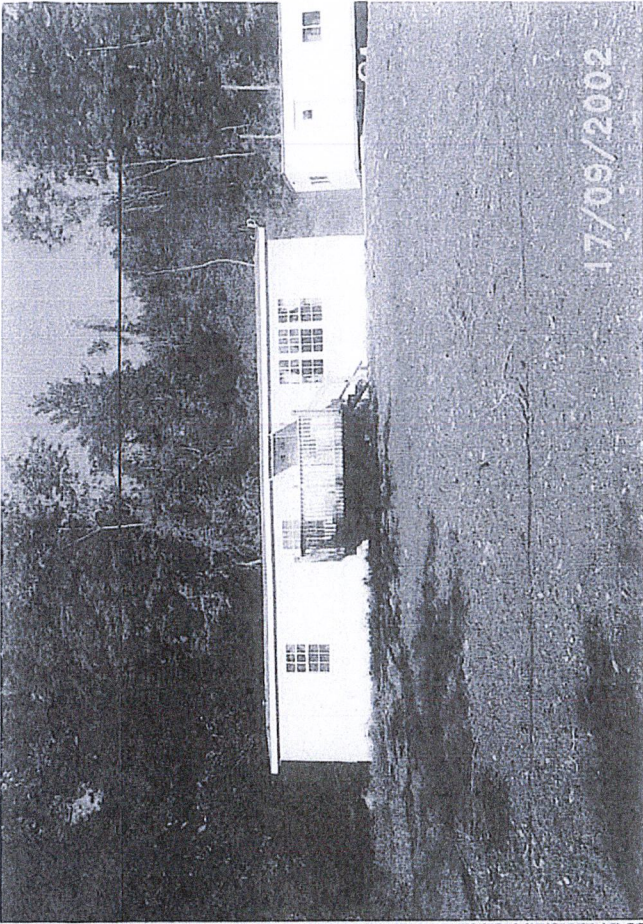
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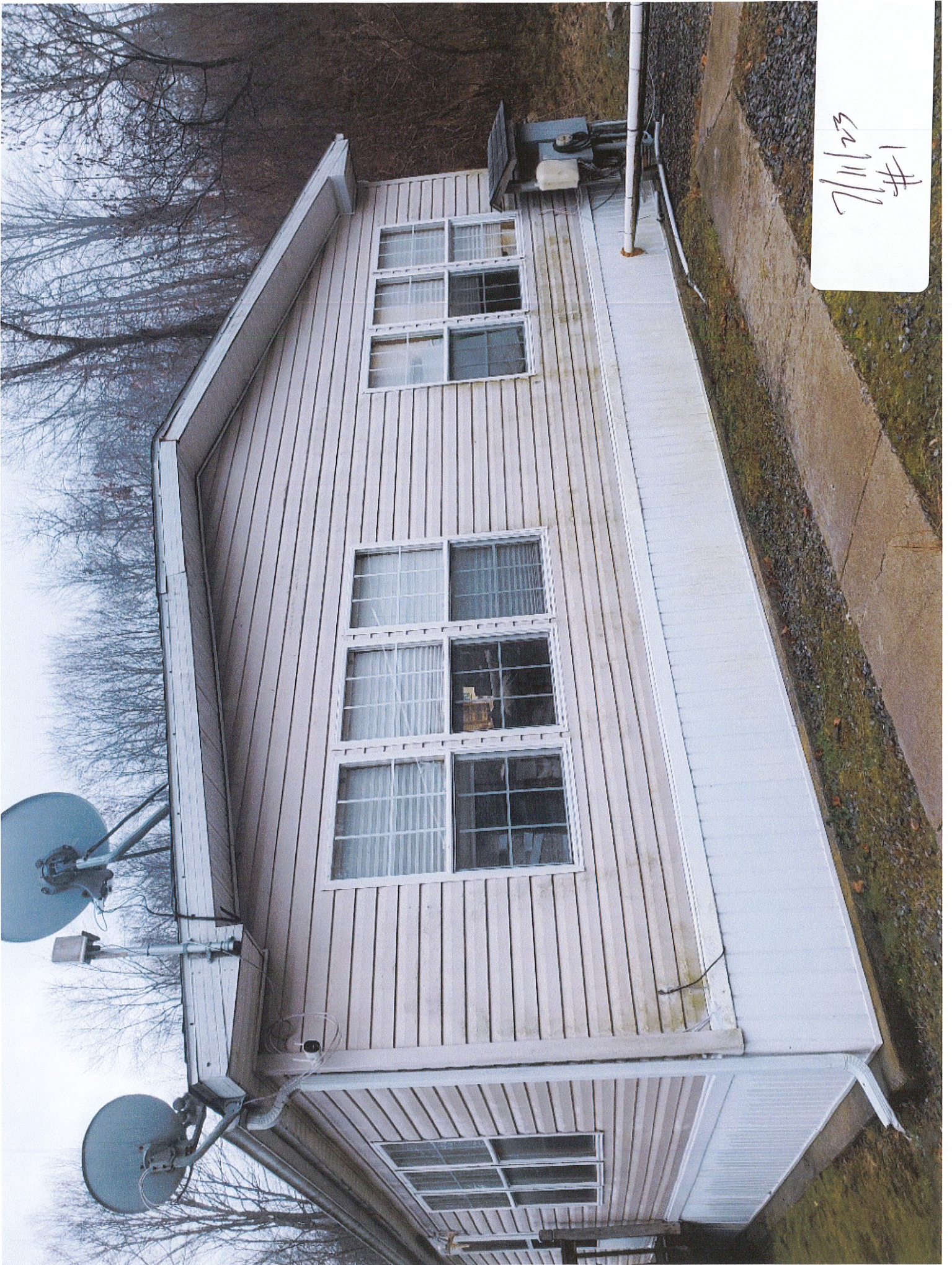


7/11/23
#4



7/11/23
#3





1#
221112

**AFFIDAVIT OF POSTING(S) OF
NOTICE OF PUBLIC HEARING
AT THE PROPERTY**

STATE OF NEW YORK: COUNTY OF ORANGE:

I, Vincent Esposito, being duly sworn, depose and say that I did on or before

July 13, 2023, post and will thereafter maintain at

382 Rock Cut Rd 11-1-60.2 R2 Zone in the Town of Newburgh, New York, at or near the front

property line(s) and within view of each fronting street a copy(ies) of the Notice of Public Hearing, which notice was in the form attached hereto.

The applicant shall maintain and update notice(s) (with amended information if there is any change to the information contained in the original Notice of Hearing) until after the Public Hearing is closed. The Notice must then be removed and property disposed of within ten (10) days of the close of the Public Hearing. Failure to follow the required procedure may result in the Public Hearing being held open for additional time.

cel

[Signature]

Sworn to before me this 13th
day of July, 2023.

[Signature: Marcia A. Jacobowitz]

MARCIA A. JACOBOWITZ
Notary Public, State of New York
No. 4877911
Qualified in Orange County
Commission Expires Nov. 3, 2026



BEW
of D

10/12/11
Department of Health and Human Services
10/12/11

Re: [redacted]

October 12, 2011

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382



TOWN OF NEWBURGH
County of the City of New York
ZONING BOARD OF APPEALS
21 Hudson Valley Professional Plaza
Newburgh, NY 12550

OFFICE OF ZONING BOARD
TELEPHONE 845-566-4901
FAX LINE 845-566-7892

NOTICE OF HEARING

NOTICE is hereby given that pursuant to Section 267-a (1) of the Town Law, State of New York and Section 102-5.5a (3) of the Zoning Ordinance of the Town of Newburgh, a Public Hearing will be held by the Zoning Board of Appeals of the Town of Newburgh, New York on Thursday the 22nd day of July, 2023 at 7:00 P.M. in the Town Hall, 1496 Route 900, Town of Newburgh, New York, to act upon the following appeal:

APPLICATION of **COASTAL USA CARPENTRY SERVICES, INC.** for a **REZONING** from **RT-2** to **RT-1** located at **227-237 W. 102nd Street, Newburgh, NY 12550** and the **Special Code Commission**, **Office of Professional and** **Administrative Services**, **1496 Route 900, Newburgh, NY 12550**, in the Town of Newburgh, New York.

PREMISES LOCATED at **227-237 W. 102nd Street, Newburgh, NY 12550**.

TAKE NOTICE that the applicant should appear at the hearing and for purposes interested in any way may appear and be heard by the Board.

HEARING will be held on the Zoning Board of Appeals on the 22nd day of July, 2023.

[Signature]
APPLICANT