



TOWN OF NEWBURGH

Crossroads of the Northeast

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

Zoning Board of Appeals
SEP 25 2018
Town of Newburgh

APPLICATION

OFFICE OF ZONING BOARD
(845) 566-4901

DATED: 9/16/18

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

I (WE) Daniel + Elissa Dickinson PRESENTLY

RESIDING AT NUMBER 4 Maplewood Dr. Newburgh, NY 12550

TELEPHONE NUMBER 845-591-6720

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:

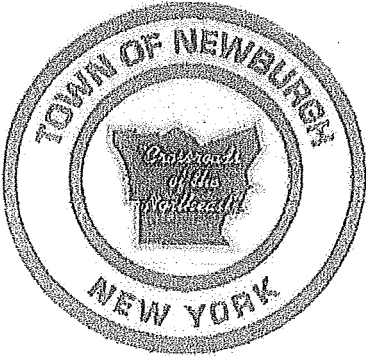
SBL 6-1-12 (TAX MAP DESIGNATION)

N/A (vacant land) (STREET ADDRESS)

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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

280 (A)



TOWN OF NEWBURGH

Crossroads of the Northeast

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

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: _____

4. DESCRIPTION OF VARIANCE SOUGHT: Area 280(A)

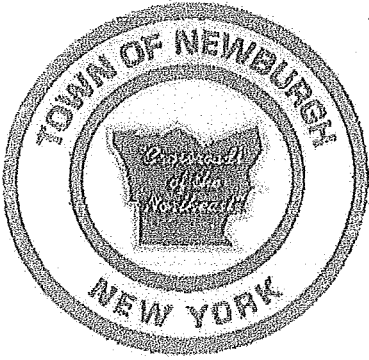
5. IF A USE VARIANCE IS REQUESTED: STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT:

- 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:



TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS

OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

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 will be a single family home
similar to others in the subdivision

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:

of the land-locked nature
of the physical property

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

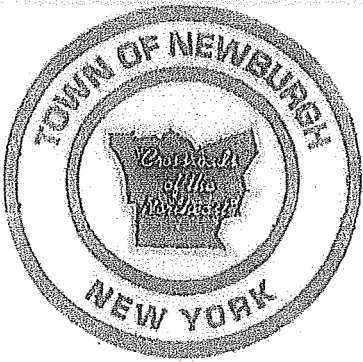
the house will not be any
different from others already existing

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 is a single family home built
in the same manner as others
in the sub-division

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

it is not self created because
a variety of other actions have been
taken to achieve an easier method



TOWN OF NEWBURGH

Crossroads of the Northeast

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

OFFICE OF ZONING BOARD
(845) 566-4901

7. ADDITIONAL REASONS (IF PERTINENT):

PETITIONER(S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 18 DAY OF September 20 18

JOSEPH P. PEDI
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01PE6370913
Qualified in Orange County
Commission Expires February 12, 2022

NOTARY PUBLIC

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 10 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)

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

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

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

Part 1 - Project and Sponsor Information							
Name of Action or Project: <i>Dickinson SBL 6-1-12</i>							
Project Location (describe, and attach a location map): <i>SBL 6-1-12 Newburgh, NY 12550</i>							
Brief Description of Proposed Action: <i>Construction of a single family home - Approx. 2600 sq ft.</i>							
Name of Applicant or Sponsor: <i>Daniel & Elissa Dickinson</i>		Telephone: <i>845-591-6720</i>					
Address: <i>4 Maplewood Dr.</i>		E-Mail: <i>danielmichael@dickinson@yahoo.com</i>					
City/PO: <i>Newburgh</i>	State: <i>NY</i>	Zip Code: <i>12550</i>					
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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:			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3.a. Total acreage of the site of the proposed action?		<i>12</i> acres					
b. Total acreage to be physically disturbed?		<i>< 1</i> acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<i>12</i> acres					
4. Check all land uses that occur on, adjoining and near the proposed action.							
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)							
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____							
<input type="checkbox"/> Parkland							

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" 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?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
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"/>	
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>private 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>private 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"/>	
	<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: <u>Federal wetlands / < .10 AC</u>	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	<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"/>	

<p>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)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: Daniel Dickinson Date: 9/17/18

Signature: Dal [Signature]

Agency Use Only [If applicable]

Project:

Date:

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

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 checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" 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 checked="" 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 checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Agency Use Only [If applicable]

Project:

Date:

Short Environmental Assessment Form Part 3 Determination of Significance

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.

N/A

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency

9/14/18

Date

Daniel Dickinson / owner

Title of Responsible Officer

Print or Type Name of Responsible Officer in Lead Agency

D. Dickinson

Signature of Preparer (if different from Responsible Officer)

Signature of Responsible Officer in Lead Agency

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 104 entitled 'Schedule of Fees' of the Code of the Town of Newburgh Zoning Board of Appeals Application Fees Effective January 1, 2017".

SECTION 2 - AMENDMENTS TO CHAPTER 104

1. That Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code is amended as follows:

Subsection 104-2D(2) of Section 104-2 entitled "Planning, zoning and building fees" of Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code be and hereby is amended to read as follows:

"(2) Zoning Board of Appeals Applications:

(a)	Area Variance for Single and Two Family Residential Use and Accessory Use thereto	\$250.00
(b)	Use Variance for Single and Two Family Residential Use And Accessory Use thereto	\$250.00
(c)	All other Area Variances	\$500.00
(d)	All other Use Variances	\$750.00
(e)	Special Permits	\$150.00
(f)	ZBA Interpretation of Code	\$250.00
(g)	Appeal of Code Compliance Determination	\$250.00

Additionally, a \$50.00 public hearing publication fee will be charged for all applications requiring a public hearing, and for those proceedings for which a court reporter is used, the applicant shall pay the costs of transcription

SECTION 3 - UNCONSTITUTIONALITY OR ILLEGALITY

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 4 - EFFECTIVE DATE

This Local Law shall take effect on the later of the date it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law or January 1, 2017.

DECLARATION
OF
RIGHT OF WAY
AND
MAINTENANCE AGREEMENT

TARBEN, INC., a domestic corporation with an office for the transaction of business located at 225 Stonewood Drive, Newburgh, Orange County, New York 12550 ("GRANTOR") and DANIEL DICKINSON and ELISSA DICKINSON, residing at 4 Maplewood Drive, Newburgh, Orange County, New York 12550 (hereinafter "DICKINSON"), CHRISTOPHER MARTINEZ and CYNTHIA MAZZOLA MARTINEZ, residing at 246 Farmers Tpke., Gardiner New York 12525, (hereinafter "MARTINEZ"), RONALD L. COLANDREA, residing at 4 Rivers Edge, Newburgh, New York 12250 (hereinafter "COLANDREA") and RAY FUCHECK and DAWN FUCHECK residing at 45 Willets Way, Newburgh, New York 12550 (hereinafter "FUCHECK"). "DICKINSON", "COLANDREA", "MARTINEZ" and "FUCHECK" are hereinafter referred to collectively as ("GRANTEES or OWNERS").

RECITALS

- A. "GRANTOR" is the owner of certain properties located in the Town of Newburgh, Orange County, New York and described on the Tax Map of the Town of Newburgh as SBL: 6-1-19, SBL: 6-1-21, SBL: 6-1-91 and SBL: 17-2-110. GRANTOR filed a subdivision map relating to said properties in the office of the Orange County Clerk on October 5, 2016, as Map # 274-16 (hereinafter sometimes referred to as "the MAP").
- B. Access to and from the public highway known as Revere Road in the Town of Newburgh to the GRANTEES' lots is over a PRIVATE ROAD (hereinafter sometimes referred to as, the "PRIVATE ROAD" or "RIGHT-OF-WAY") owned by Grantor which proceeds in a northerly direction from the cul-de sac at the northerly terminus of a Town Road known as Tarben Way through the lands of GRANTOR in a generally northerly direction contiguous to Lot Numbers 10 and 12 and referred to on the MAP as a "50' wide continuation Easement" to the premises of COLANDREA (SBL 6-1-20), through Lot 12 on the Map and abutting parcels of land designated on the Town of Newburgh Tax Map as SBL 6-1-11 (FUCHECK); SBL 6-1-12 (DICKINSON) and SBL 6-1-41.22 (MARTINEZ).
- C. DICKINSON and FUCHECK are designated on the MAP as the OWNERS of SBL 6-1-12 (lands of DICKINSON) and SBL 6-1-11 (lands of FUCHECK). (References on the MAP to "Lands of Dickinson" and "Lands of Fuchek" are reversed in error).
- D. GRANTOR wishes to grant a 50' wide Easement (hereinafter, "RIGHT-OF-WAY") for ingress and egress as well as for utilities to and from Tarben Way to the lands of the GRANTEES known and designated on the tax map of the Town of Newburgh, County of Orange as SBL: 6-1-12 (lands of DICKINSON) SBL: 6-1-11 (lands of FUCHECK), SBL: 6-1-20 (lands of COLANDREA) and SBL: 6-1-41.22 (lands of MARTINEZ).

- E. GRANTOR and GRANTEES (hereinafter sometimes referred to as the "PARTIES") also desire to establish a procedure for continuing maintenance of said RIGHT-OF-WAY including, but not limited to, the rights and obligations of others who may use the RIGHT-OF-WAY. It is in the best interests of all PARTIES/OWNERS, present and future, that will own the lots presently titled in the PARTIES as well as all future OWNERS who may utilize the RIGHT-OF-WAY, to have an AGREEMENT that sets forth the intent to maintain said RIGHT-OF-WAY in a passable condition and also sets forth the apportionment of expenses and repairs of said RIGHT-OF-WAY.

NOW THEREFORE IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

1. The GRANTOR in consideration of one dollar (\$1.00) and other valuable consideration paid by the GRANTEES, does hereby grant and release unto the GRANTEES an easement for ingress and egress and for utilities to and from Tarben Way to the lands of the GRANTEES known and designated on the Tax Map of the Town of Newburgh, County of Orange, as SBL: 6-1-12 (lands of DICKINSON), SBL: 6-1-11 (lands of FUCHECK), SBL: 6-1-20 (lands of COLANDREA) and SBL: 6-1-41.22 (lands of MAZZOLA).
The area of said easement is more particularly shown and designated as the 50' easement along Lot 12 (Section 127 Block 1 Lot 12) shown on the Map.
2. The GRANTEES present and future will refer to this Agreement in the Deeds conveying title to their respective premises and will cause the heirs, successors and assigns of the GRANTEES to assume the obligations under this Agreement.
3. The GRANTEES shall meet at least annually to determine what maintenance shall be done on the PRIVATE ROAD for the coming year. The GRANTEES shall also agree on a method for determining when contractors shall be requested to perform maintenance on the PRIVATE ROAD/RIGHT OF WAY, remove snow or sand when snow or ice conditions prevail.
4. All decisions for improvement of the PRIVATE ROAD shall be made by a unanimous vote of all lot OWNERS present and each lot OWNER shall have an equal vote. Nevertheless, in the event not all of the OWNERS can agree on necessary repairs and/or improvements to the PRIVATE ROAD, the matter shall be resolved by submission to the American Arbitration Association for binding arbitration by a single arbitrator. The costs of such arbitration shall be assessed against the GRANTEES, their heirs, successors and/or assigns equally.
5. All maintenance and expenses of said RIGHT-OF-WAY shall be equally borne only by the owners of those lots of the GRANTEES on which residences have been constructed and Certificates of Occupancy have been issued, including, but not necessarily limited to, the owners of Lot 6-1-20 (COLANDREA) and Lot 6-1-41.22 (MARTINEZ).
6. In the event one of the GRANTEES, or their heirs, successors and/or assigns fails to pay their proportionate share of the expenses within FIVE (5) days of receipt of a statement from the Contractor in that regard, the other OWNERS shall be authorized to forward the portion of the invoice that has been paid to the contractor with a statement setting forth the proportionate share that remains unpaid and the name(s) the lot OWNER(s) that has not paid their share. The lot OWNER(s) who has not

paid their proportionate share shall subject their real property to the lien of the Contractor as if they had executed the contract for the performance of the work. For the purpose of this Agreement, each OWNER that is affected by the Agreement hereby gives their authorization and by accepting a Deed to their respective lot does hereby accept the condition that any work performed pursuant to this Agreement shall be deemed authorized by all the OWNERS and the OWNERS consent to be bound by the terms of any contract for improvements entered into pursuant to the same.

7. Unless otherwise agreed among the lot OWNERS, it is hereby declared that in the event that accumulation of snow exceeds four (4) inches in depth, as the average depth, any party to this Agreement is authorized to engage a contractor to remove the snow from the Driveway without further authorization from the other lot OWNERS;
8. All OWNERS agree that the PRIVATE ROAD/RIGHT OF WAY shall always be installed and maintained in accordance with the requirements of the Town of Newburgh, and maintained so as to be passable by ordinary passenger vehicles, emergency vehicles, as well as delivery trucks; and this shall include any "potholes" that exceed two (2) inches in depth. Maintenance includes snow removal, de-icing, sealing, resurfacing and re-edging pavement.
9. The PARTIES hereto shall execute any such other and further documentation as may from time to time be required to carry out the purposes and the intent of this Agreement, including but not limited to, any and all documentation necessary and appropriate to granting an Easement under and through the PRIVATE ROAD/RIGHT OF WAY for installation of utilities;
10. In the event a court of competent jurisdiction finds that any portion of this Agreement is void or unenforceable, the remainder of this Agreement which is not so found to be void or unenforceable shall remain in force and effect;
11. The PARTIES hereby confirm and ratify their respective rights to continue to utilize the PRIVATE ROAD/RIGHT OF WAY in its present location as depicted on the Map as a means of ingress and egress and for installation of utilities to and from their respective lots and Tarben Way;
12. This Declaration of Right of Way and Maintenance Agreement shall be recorded in the office of the Orange County Clerk and run with title to the lands and be binding upon the PARTIES, their heirs, successors and/or assigns in perpetuity.
13. Each lot OWNER shall indemnify and hold the other lot OWNERS and the GRANTOR harmless from any and all liability, including reasonable attorneys' fees, for personal injury or property damage when such injury or damage shall result from, arises out of or be attributable to the construction, use, repair or improvement of the PRIVATE ROAD/RIGHT-OF-WAY. Each lot OWNER shall indemnify and hold the GRANTOR harmless from any and all liability, including reasonable attorney's fees, for the cost of construction, re-construction, maintenance and repair of the PRIVATE ROAD/RIGHT OF WAY.
14. The GRANTEES (their successors and assigns) shall have the right to install and repair utilities on/under the Right-of-Way at their sole expense in a workmanlike

manner and restore the premises to its original condition following the installation of any such utilities. The term "utilities" shall include, but not be limited to water, sewer, electric, gas, telephone and cable. Such party undertaking such activity shall substantially return the premises to their existing condition after exercising rights pursuant to this AGREEMENT.

15. The PARTIES, their successors and assigns, agree not to place any structures within the PRIVATE ROAD/RIGHT-OF-WAY area and not to block the use thereof.
16. RESERVING unto the GRANTOR the right of ingress, egress and utilities to and from Lot # 12 on the Map (and as the same may or may not be further subdivided in the future) to Tarben Way over such portions of the PRIVATE ROAD/RIGHT OF WAY as are a part of the said Lot #12 and shall not bear any cost of the installation or maintenance of the PRIVATE ROAD/RIGHT OF WAY.

Dated: _____ day of _____, 2018


DANIEL DICKINSON


ELISSA DICKINSON

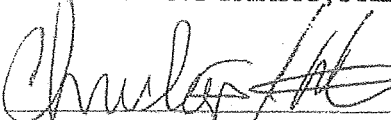

RAY FUCHECK

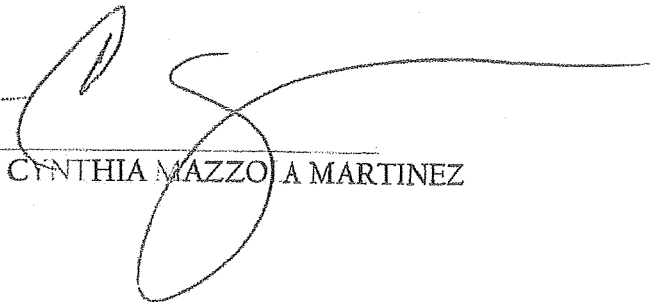

DAWN FUCHECK


RONALD L. COLANDREA

TARBEN, INC.


BY: ANTHONY TARSIO, PRESIDENT

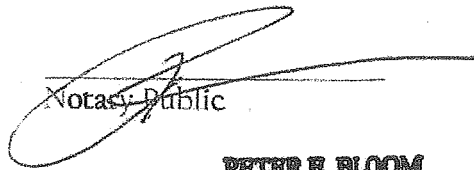

CHRISTOPHER MARTINEZ


CYNTHIA MAZZO A MARTINEZ

STATE OF NEW YORK)

COUNTY OF Orange) ss.:

On the 23rd day of August, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared DANIEL DICKINSON, 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, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

PETER B. BLOOM
NOTARY PUBLIC - STATE OF NY
Residing in Orange County
#02BL5351357
Commission Expires June 30, 2022

STATE OF NEW YORK)

COUNTY OF NY Orange) ss.:

On the 23rd day of August, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared ELISSA DICKINSON 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.

MATTHEW RICHARD WHITE
Notary Public - State of New York
NO. 01WH6282720
Qualified in Dutchess County
My Commission Expires May 28, 2021


Notary Public

STATE OF NEW YORK)

COUNTY OF Orange) ss.:

On the 23 day of August, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared RAY FUCHECK 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, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

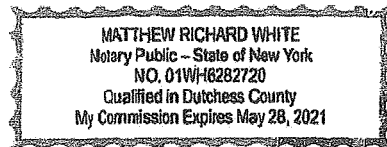
MATTHEW RICHARD WHITE
Notary Public - State of New York
NO. 01WH6282720
Qualified in Dutchess County
My Commission Expires May 28, 2021


Notary Public

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

On the 23 day of August, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared DAWN FUCHECK 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, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

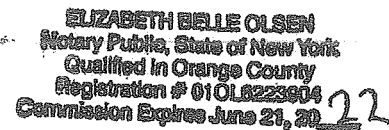
Matthew R White
Notary Public



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

On the 27th day of August, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared ANTHONY TARSIO 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, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

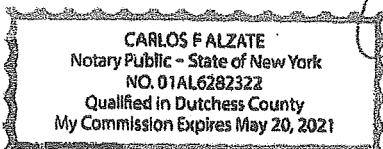
Elizabeth Belle Olsen
Notary Public



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

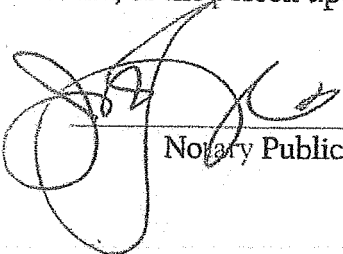
On the 27th day of August, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared RONALD L. COLANDREA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Carlos F Alzate
Notary Public



STATE OF NEW YORK)
) ss.:
COUNTY OF Ulster)

On the 28th day of August, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared CHRISTOPHER MARTINEZ, 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, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

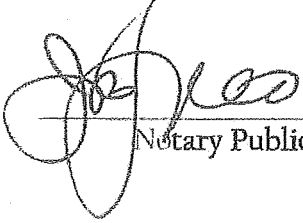


Notary Public

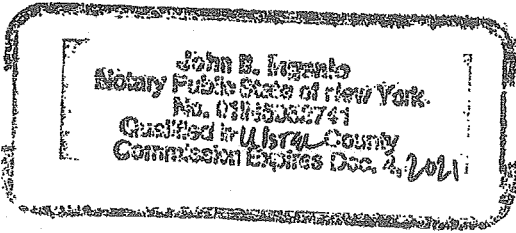


STATE OF NEW YORK)
) ss.:
COUNTY OF Ulster)

On the 28th day of August, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared CYNTHIA MAZZOLA MARTINEZ, 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, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public



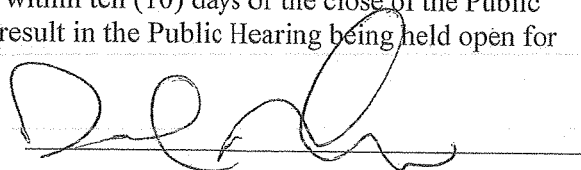
**AFFIDAVIT OF POSTING(S) OF
NOTICE OF PUBLIC HEARING
AT THE PROPERTY**

STATE OF NEW YORK: COUNTY OF ORANGE:

I Daniel Dickinson, being duly sworn, depose and say that I did on or before
October 11, 2018, post and will thereafter maintain at

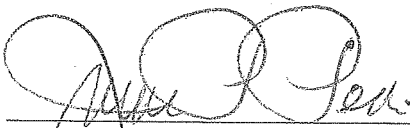
Tarben Way (6-1-12) AR Zone in the Town of Newburgh, New York, at or near the front
property line(s) and within view of each fronting street a copy(ies) of the Notice of Public Hearing, which
notice was in the form attached hereto.

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.



Sworn to before me this 3
day of October, 2018.

JOSEPH P. PEDI
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01PE6370913
Qualified in Orange County
Commission Expires February 12, 2022



Notary Public

[Photograph(s) of the posted Public Hearing Notice(s) must be submitted by the applicant with this
affidavit.]