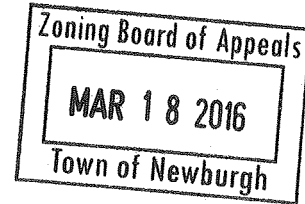


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March 18, 2016



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Via Email: zoningboard@townofnewburgh.org

Hon. James E. Manley, Jr., Chairperson
and Zoning Board of Appeals Members
Town of Newburgh Zoning Board of Appeals
Old Town Hall
308 Gardnertown Road
Newburgh, New York 12550

Re: DRA Fidelco Use Variance and Special Use Permit Application
Summit Lane, Newburgh Expansion, Town of Newburgh
68 Stewart Avenue, Town of Newburgh
Tax Map No. Section 97, Block 1, Lot 47.2
Our File No. 11247-003

Dear Chairperson Manley and Zoning Board of Appeals Members:

Neither I nor my client will be able to attend this month's Board meetings due to prior commitments relating to the fact that your Board meeting falls during the week of Spring break for New York State schools. Additionally, I have been advised that the Town Board has not yet appointed a seventh Zoning Board of Appeals member. Therefore, our application would not be considered by a full compliment of Board members.

Based upon this information, I respectfully request that your Board postpone vote on both of the applications affecting the above-referenced property.

This letter submitted on behalf of my client constitutes consent to extend any necessary time frames related to the time to make a decision in order to allow us to attend the meeting and have the application considered by a full Board.

I thank you in advance for your attention to this matter.

Yours very truly,

John C. Cappello

JCC/sac

cc: David Donovan, Esq. (via email: David.Donovan@DDDLLPLaw.Com)

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

Mr. John Cappello
Jacobowitz and Gubits
158 Orange Avenue
Walden, NY 12586

March 21, 2016

Dear Mr. Cappello,

In response to your letter dated March 18, 2016 e-mailed to the Zoning Board office requesting the DRA Fidelco Newburgh, LLC. Interpretation and Use Variance applications be postponed I have spoken with the Chairman regarding your request.

The Chairman has indicated that the Board intends to vote on applications at the Thursday, March 24, 2016 Zoning Board of Appeals meeting and that should you wish you could either send another representative from your firm or if no one from your firm attends then you may either call or email this office to obtain the result.

Sincerely,



Betty Gennarelli,
Secretary, Zoning Board of Appeals

Betty Gennarelli - ZONING BOARD

From: John Cappello <jcc@Jacobowitz.Com>
Sent: Monday, March 21, 2016 3:22 PM
To: 'Betty Gennarelli'
Cc: David A. Donovan; James Manley
Subject: RE: DRA Fidelco Use Variance and Special Permit Use Application - Summit Lane, Newburgh Expansion

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Chairman Manley,

I am disappointed by your response to my request that a decision in this matter be delayed a month so that my Client and I can be in attendance to hear your deliberations.

My Clients have expended tens of millions of dollars to build attractive and successful rental communities in the Town. Throughout the approval construction of the Summit Lane project or during the approval process for the Meadow Hill or Summit Lane rental communities my Clients have conducted themselves in a professional manner. They have worked with the Town Board, Planning Board and Building Department to insure that all their activities comply with the Town Zoning and building codes.

It is true that my Clients would like to make use of a perfectly good building located on the property to provide an additional amenity of extra storage area for their tenants. While I believe there is ample justification to interpret the zoning to permit such a use especially given the law in NYS that clearly states that any ambiguity in zoning is construed in favor of the property owner, it is apparent that you personally do not agree with our position. While we do not agree with what certainly appears to be your position, we understand that people have the right to different opinions. We do believe that we are entitled to be present to hear the deliberation of the entire board so we can understand why this seemingly innocuous use would not be permitted to move forward.

This is especially true given the fact that the vote on the prior application was a 3-3 deadlock. I therefore, respectfully request that you reconsider your position and postpone your decision on this matter until your April agenda.

Thank you for your consideration.

John C. Cappello

Partner

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