

APPLICATION TO THE ZONING BOARD OF APPEALS, TOWN OF NEWBURGH

DATED: 7/12/2011

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

I (WE) Stacey Hawkins PRESENTLY  
RESIDING AT NUMBER 78 Baluville Rd  
TELEPHONE NUMBER 845-565-6802

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

- A USE VARIANCE
- AN AREA VARIANCE
- INTERPRETATION OF THE ORDINANCE
- ACCESSORY APARTMENT

1. LOCATION OF THE PROPERTY:

43-3-47 (TAX MAP DESIGNATION)  
78 Baluville Rd (STREET ADDRESS)  
R-1 (ZONING DISTRICT)

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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

Article IV Section 185-15(2)  
 \_\_\_\_\_  
 \_\_\_\_\_

3. IF VARIANCE TO THE ZONING LAW IS REQUESTED:

- a) APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OR BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED: \_\_\_\_\_
- b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: 7/2/2011

4. DESCRIPTION OF VARIANCE SOUGHT: Area variance of 5' for set back of accessory structure to side lot line

NA 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:

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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:

The structure has been there for years and is well screened. In addition, the adjoining neighbor has a similar structure that backs up to the structure on the Applicant's property.

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:

The structure can not be relocated without causing significant damage to it.

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

There is a fence along the property line which provides separation to the adjoining property.

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

It's an existing condition and has been there for years.

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

The previous owners constructed it.

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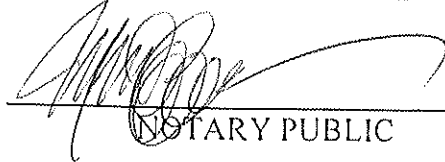
7. ADDITIONAL REASONS (IF PERTINENT):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
PETITIONER(S) SIGNATURE

STATE OF NEW YORK: COUNTY OR ORANGE:

SWORN TO THIS 13<sup>TH</sup> DAY OF FEBRUARY 20 12

  
NOTARY PUBLIC

MICHAEL J GIAMMARCO  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01G16236061  
Qualified in Orange County  
My Commission Expires February 22, 2015

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.

TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

PROXY

Stacey Hawkins, DEPOSES AND SAYS THAT  
HE/SHE RESIDES AT 78 Balwille Rd, Newburgh  
IN THE COUNTY OF Orange AND STATE OF New York  
AND THAT HE/SHE IS THE OWNER IN FEE OF 78 Balwille Rd  
(SBL: 43-3-47)

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-  
TION AND THAT HE/SHE HAS AUTHORIZED Hudson Land Design, PC  
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 2/1/12

Stacey A.H. Hawkins

OWNER'S SIGNATURE

[Signature]

WITNESS' SIGNATURE

STATE OF NEW YORK; COUNTY OF ORANGE;

SWORN TO THIS 1<sup>ST</sup> DAY OF FEBRUARY 20 12

[Signature]

NOTARY PUBLIC

MICHAEL J. GIAMMARCO  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01G16236061  
Qualified in Orange County  
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Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR Stacey Hawkins	2. PROJECT NAME Hawkins Subdivision
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3. PROJECT LOCATION:  
Municipality T/O Newburgh County Orange

4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)  
78 Baluville Road (see attached mapping)

5. PROPOSED ACTION IS:  
 New     Expansion     Modification/alteration

6. DESCRIBE PROJECT BRIEFLY: Area Variance (5') requested for existing accessory structure. Applicant is proposing to subdivide an existing 7.6 acre parcel into two (2) residential lots. One lot will contain the existing house and the other will provide for the construction of one new home.

7. AMOUNT OF LAND AFFECTED:  
Initially 0.6 acres Ultimately 0.6 acres

8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS?  
 Yes     No    If No, describe briefly  
 \* variance of 5' requested for existing accessory structure

9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT?  
 Residential     Industrial     Commercial     Agriculture     Park/Forest/Open Space     Other  
 Describe: Parcel is located in the R-1 Residential Zoning District

10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)?  
 Yes     No    If Yes, list agency(s) name and permit/approvals:

11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL?  
 Yes     No    If Yes, list agency(s) name and permit/approvals:

12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION?  
 Yes     No    N/A

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE  
 Applicant/sponsor name: Stacey A. Hoener-Hawkins Date: 1-4-12  
 Signature: Stacey A.H. Hawkins

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

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

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.  
 Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.  
 Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:  
**No**

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:  
**No**

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:  
**No**

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:  
**No**

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:  
**No**

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:  
**No**

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:  
**No**

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?  
 Yes  No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?  
 Yes  No If Yes, explain briefly:

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.

\_\_\_\_\_  
 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)



*Civil & Environmental Engineering Consultants  
174 Main Street, Beacon, New York 12508  
Phone: 845-440-6926 Fax: 845-440-6637  
[www.HudsonLandDesign.com](http://www.HudsonLandDesign.com)*

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December 21, 2011

Chairperson Grace Cardone  
Town of Newburgh Zoning Board of Appeals  
1496 Route 300  
Newburgh, NY 12550

Re: 78 Balmville Road Subdivision (Planning Board Project #2011-13)  
Request for Area Variance  
Tax ID: 43-3-47 (±7.6 acre)

Dear Chairperson Cardone and Zoning Board Members:

On behalf of the Applicant for the above referenced project, Hudson Land Design (HLD) has prepared the enclosed application to the Zoning Board of Appeals in accordance with Town requirements. The ±7.6-acre vacant parcel is located at 78 Balmville Road in the Town of Newburgh, and is identified as Tax ID 43-3-47. The Applicant, who is the Owner of the parcel, is seeking to subdivide the property into two building lots, one of which would contain the existing home and existing accessory structures, and the new lot would provide for the construction of one new single-family home. There is an existing accessory structure with less than one foot of setback to the side lot line where 5' is required, and the Owner is requesting a variance of 5' to this requirement. HLD has included the following for your consideration:

- A completed and notarized application and proxy statement, along with a short Environmental Assessment Form;
- Eleven (11) copies of the Subdivision Plan;
- Four (4) photos of the property taken at different angles;
- Application fee in the amount of \$200;
- Referral letter from the Planning Board's attorney;
- An original copy of the deed; and
- Assessor's list of property owners within 300 feet of the property.



We respectfully request to be placed on your next available agenda for a hearing on the requested variance.

Should you have any questions or require additional information, please feel free to call me at 845-440-6926.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon D. Bodendorf". The signature is fluid and cursive, with a large initial "J" and "B".

Jon D. Bodendorf, P.E.  
Principal

cc: Stacey Hawkins  
Daniel G. Koehler, P.E. (HLD File)



1. View of property from Balmville Road



2. View of property from Grand Avenue.



3. View of pole barn looking northwest.



4. View of pole barn looking east.

(REMAINING LANDS)

20:34 (4)  
1.2A  
202.6

20.35  
7.2A

SE

VEHICULAR

5

31  
2A(C)  
1708

20  
7.7A(C)  
Common School  
Dist. 1

18  
3.6A  
FIRE DISTRICT

INSERT B

SUB MAP 601-06  
SUNNIT ENTERPRISES  
PEAK

202.6  
150.0

29  
MIDDLE  
River Rd. 1300.9

21  
4.3A  
FAVINO SUB MAP

23.1  
3.1A  
Dist. 1

23.2  
2.9A  
INSERT C

24  
1.7A

18.21  
1A

19.1  
1A

50  
1.3A  
HOPE  
COMMONWEALTH

49  
2.4A  
COMMONWEALTH

46  
2.6A(C)  
1704

47  
7.6A  
1803

45  
2.6A(C)  
1704

19.2  
2.6A(C)  
510S

52.2A  
181.1

53.2  
2.1A  
GALATI & TAWSE SUB MAP 231-05

44.1A(C)  
1255

43.2  
1.8A  
1825

42  
1.9A  
1138

41.1.4A  
14.6

55.1  
2.9A  
SUB MAP 285-04

55.22  
5.3A  
JOHN BLAIR OVERTON TRUST

56.0  
1.6A(C)  
DEPIETRO SUB MAP 9217

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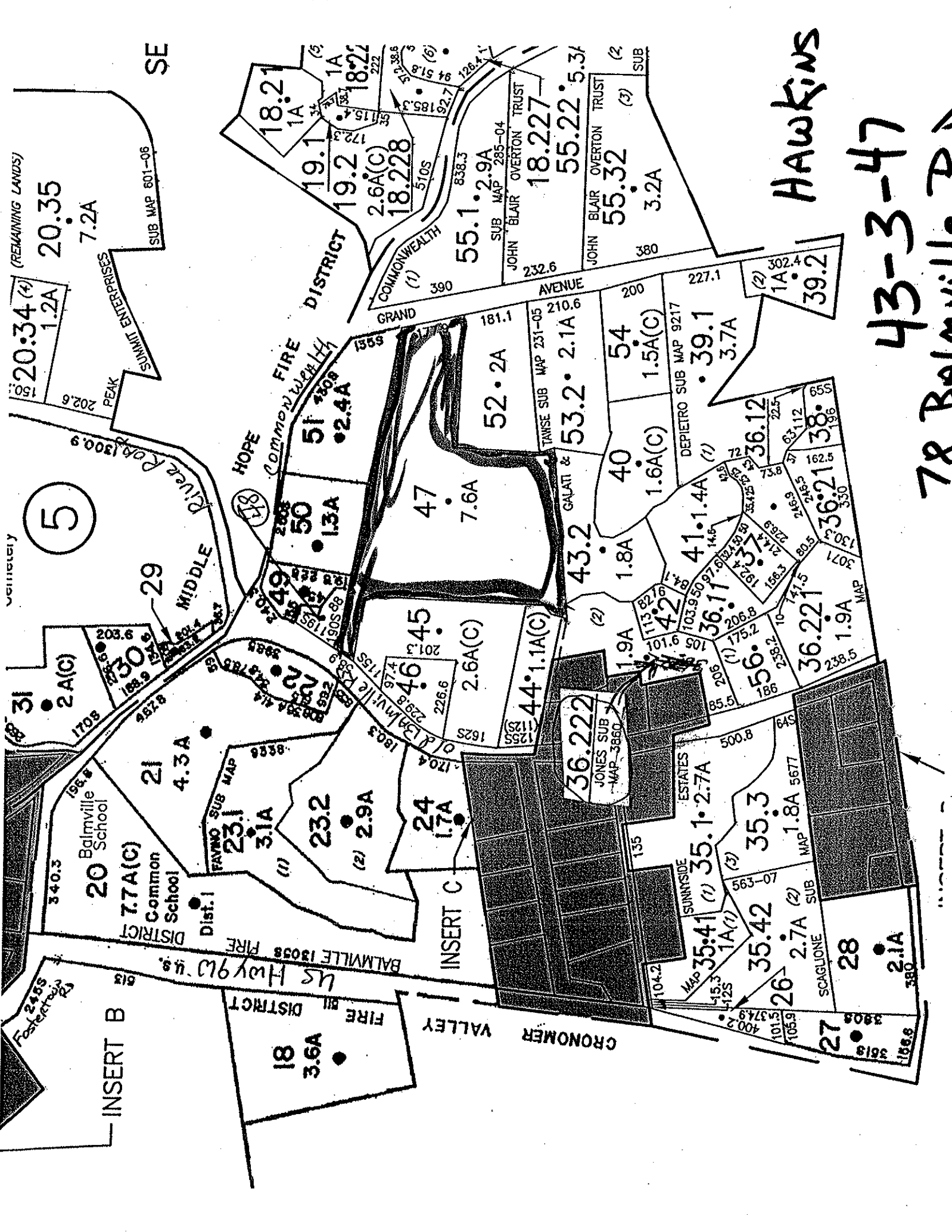
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HAWKINS

43-3-47

78 BALMVILLE RD



***Dickover, Donnelly, Donovan & Biagi, LLP***  
**Attorneys and Counselors at Law**

**James B. Biagi**  
**David A. Donovan**  
**Michael H. Donnelly**  
**Robert J. Dickover**

28 Bruen Place  
P.O. Box 610  
Goshen, NY 10924  
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*me@addblaw.com*  
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*(Not for Service of Process)*

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

July 8, 2011

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

RE: 78 Balmville Road Subdivision  
43-3-47 (Zone R-1)

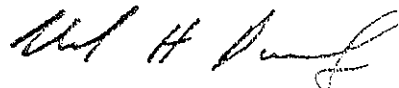
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Members of the Board:

I write to you as the attorney for the Town of Newburgh Planning Board. The above referenced applicant appeared before the planning board on July 7, 2011. The applicant proposes to subdivide their lot into two lots. The existing lot is currently non-complying with respect to a barn which does not meet the side yard setback requirements for an accessory structure and will remain non-complying if subdivision approval is granted. Therefore, the planning board has directed me to refer this matter to you for consideration of the granting of a side yard variance to protect the noncompliance.

The planning board has no particular issues to bring to your attention or recommendations to make to you in regard to this referral.

Very truly yours,



MICHAEL H. DONNELLY

MHD/lrm

Cc: Town of Newburgh Planning Board  
David A. Donovan, Esq.  
Hudson Land Design

RECEIVED

AUG - 9 2011

TOWN OF NEWBURGH  
TOWN CLERK'S OFFICE

ZBA MEETING – JULY 28, 2011

(Time Noted – 7:28 PM)

STACY HORNER HAWKINS

78 BALMVILLE ROAD, NBGH  
(43-3-47) R-1 ZONE

Applicant is seeking an area variance for the side yard setback to keep a prior built accessory structure (barn) for a two-lot subdivision.

Chairperson Cardone: Our next applicant Stacy Horner Hawkins. Is Stacy Horner Hawkins here?

No response.

(Time Noted – 7:29 PM)

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(Time Noted – 8:17 PM)

Chairperson Cardone: O.K. I will call again for Stacy Horner Hawkins.

No response.

Ms. Gennarelli: I think that gentleman wanted to speak.

Audience Member: I don't see her here. What happens when happens when somebody is not here?

Chairperson Cardone: Did you receive a mailing?

Audience Member: Yes.

Chairperson Cardone: O.K. First of all the mailings were not in order so this was going to be held open anyway because in order for us to have the Hearing all the mailings have to be in order. So what would happen at this point is as we did with the last applicant we were talking about a letter will be sent to that applicant letting them know that first of all we have to let them know that the mailings are not in order and that has to be straightened out and then also to let them know that if they don't appear at the next meeting we will consider the application withdrawn.

Mr. Manley: Madam Chair?

Chairperson Cardone: Yes.

Mr. Hughes: Well can we...?

Chairperson Cardone: I think Mr. Manley had something to say.

Mr. Manley: I just had a question. Being that the applicant in the last case the applicant was physically here so we were able to listen to their testimony and then hold it open until next month. But in this case where you have people from the public that are here but the applicant never shows will they have to re-notice again? So that those people that let's say those people that maybe aren't here that are neighbors have the opportunity to come back out if it's rescheduled?

Chairperson Cardone: I would leave that up to the attorney but I would think it would be a good idea anyway since it wasn't in order to begin with.

Mr. Donovan: Correct. I think that the better thing to happen as opposed to the other folks where we only had one mailing that was not in order and we asked them to mail to that one person is that this...the applicant be directed, I'll be happy to do that, to re-mail to everyone. Because what you are going to have is a situation where some folks are contacted and some folks are not and given the large number of people who did not receive a notice of the meeting I think the only appropriate thing is to...

Mr. Manley: Notify them all.

Mr. Donovan: ...notify them all.

Mr. Manley: O.K.

Chairperson Cardone: So you would be re-noticed if indeed the applicant...unless they have decided to withdraw their application, that part I don't know. They are not here this evening so we don't know that.

Mr. Manley: Did the Zoning Board Secretary hear anything from them?

Ms. Gennarelli: I have not heard anything. I called myself when I saw that the...the a white receipts hadn't come back and the affidavit hadn't come back. I called twice and left messages and no one responded so...

Chairperson Cardone: Are there other people here in reference to that application? Yes, O.K. If you weren't here we wouldn't even know at this point if the mailings were sent out because we didn't get any of that information back.

(Inaudible)

Chairperson Cardone: So the applicant will be notified and they will be asked to do a re-mailing. Thank you.

(Inaudible)

Chairperson Cardone: Before proceeding the Board will take a short adjournment to confer with counsel regarding legal questions raised by tonight's applications. And if I could ask in the interest of time if you could wait in the hallway and we'll call you in shortly.

PRESENT ARE:

GRACE CARDONE  
JOHN MC KELVEY  
BRENDA DRAKE  
RUTH EATON  
RONALD HUGHES  
MICHAEL MAHER  
JAMES MANLEY

ALSO PRESENT: DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
JOSEPH MATTINA, CODE COMPLIANCE

(Time Noted – 8:20 PM)

AS 8/9/11



*Dickover, Donnelly, Donovan & Biagi, LLP*  
Attorneys and Counselors at Law

James B. Biagi  
David A. Donovan  
Michael H. Donnelly  
Robert J. Dickover

Successor Law Firm To:  
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Ludmerer & Vurno, Esqs., Warwick, N.Y.

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mal@ddbllaw.com  
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(Not for Service of Process)

August 9, 2011

Jon D. Bodendorf, P.E.  
Hudson Land Design  
174 Main Street  
Beacon, New York 12508

*RE: Town of Newburgh Zoning Board of Appeals/Area Variance Application of  
Stacey Horner Hawkins*

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Dear Mr. Bodendorf:

I write to you in my capacity as counsel for the Town of Newburgh Zoning Board of Appeals regarding the above matter.

Due to the time constraints involved, I am communicating to you via email given that you were designated as the proxy for Ms. Horner Hawkins in the application she has heretofore submitted to the Zoning Board of Appeals.

Ms. Horner Hawkins has now placed a call to the Zoning board of Appeals wherein she has advised the Board to contact her ex-husband should we have any questions or concerns regarding this application and has further indicated that her ex-husband will be presenting this matter before the Zoning Board of Appeals. She has further indicated that she believes all of her mailings are in order.

I write to advise you that the obligation to our Board was signed by Ms. Horner Hawkins only and the proxy she has given designates only you as authorized to act on her behalf. Should her ex-husband wish to proceed with this matter, either a new application must be submitted and executed by him or Ms. Horner Hawkins must provide him with a proxy to appear on her behalf regarding this application.

Further, as indicated in my prior correspondence, given the failure to deliver proof of the required mailings prior to last month's public hearing, the Board has directed that new mailings be done in order for this matter to be heard on August 25, 2011.  
Thank you for your kind consideration in this matter.

Very truly yours,



DAVID A. DONOVAN

DAD/lrm

Cc: Grace Cardone, Chairperson

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(Not for Service of Process)**

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

August 9, 2011

Stacey Horner Hawkins  
78 Balmville Road  
Newburgh, New York 12550

***RE: Town of Newburgh Zoning Board of Appeals/Area Variance Application of  
Stacey Horner Hawkins***

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Dear Ms. Horner Hawkins:

Please be advised that I am the attorney for the Town of Newburgh Zoning Board of Appeals and I write to you at this time at the direction of the Board.

As you are aware, your application for an area variance was scheduled to be heard by the Town of Newburgh Zoning Board of Appeals on Thursday, July 28, 2011. At that time neither you nor any representative duly authorized to act on your behalf was present at the meeting. Moreover, the mailings required to be delivered to the nearby property owners were not properly delivered in accordance with the Town Cod requirements.

The Board agreed to reschedule this matter for the August 25, 2011 meeting. However, your place on the agenda is specifically subject to and contingent upon a full and complete remailing of all of the notices required in a manner which is compliant with the Town Code requirements.

Very truly yours,



DAVID A. DONOVAN

DAD/lrm

Cc: Jon D. Bodendorf, P.E.  
Grace Cardone, Chairperson

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

In the Matter of:

78 Balmville Road  
(2011-13)  
Balmville Road and Grand Avenue  
Section 43; Block 3; Lot 47.0  
R-1 Zone

CONCEPTUAL TWO-LOT SUBDIVISION

Date: July 7, 2011  
Time: 7:14 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

**APPLICANT'S REPRESENTATIVE:** Jon Bodendorf

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Reported by: Rosemary A. Meyer

1 - 78 BALMVILLE ROAD -

2 BOARD MEMBER BROWNE: Okay. Our next item of business  
3 is 78 Balmville Road, Project No. 2011-13. This a  
4 Conceptual Two-Lot Subdivision being presented by Tom  
5 Cerchiara.

6 MR. BODENDORF: Actually, Mr. Cerchiara could not be  
7 here tonight. I'm Jon Bodendorf from Hudson Land Design.  
8 We're the engineers for the project --

9 BOARD MEMBER BROWNE: Thank you.

10 MR. BODENDORF: -- here on behalf of the Applicant.

11 CHAIRMAN EWASUTYN: Do you have a business card?

12 MR. BODENDORF: I can get one.

13 CHAIRMAN EWASUTYN: All right. At the end, and we'll  
14 give it to the stenographer.

15 MR. BODENDORF: Okay.

16 The subject property is located at 78 Balmville Road.  
17 It's approximately 7.6 acres in size, located between  
18 Balmville Road and Grand Avenue. It's within the town's  
19 R-1 Zoning District. And currently, there's an existing  
20 house on the property with some accessory structures.

21 What the Applicant is looking to do is to subdivide  
22 the property into two lots, one of which would contain the  
23 existing home and the accessory structures, and the other  
24 would provide for the construction of a new single-family  
25 home. The lot with the existing home would be reduced to

1 - 78 BALMVILLE ROAD -

2 5.9 acres and the newly created lot would be approximately  
3 1.7 acres in size.

4 The new home would gain access from a new driveway to  
5 Grand Avenue. Water supply would be via a connection to  
6 the town's water main along Grand Avenue and wastewater  
7 disposal would be via a new subsurface sewage disposal  
8 system. That's essentially the project in a nutshell.

9 We did receive comments from your consultants. The  
10 majority of them were relatively minor. We've actually  
11 made most of the changes on the plan already. However,  
12 there was one item brought up by the planner. There's an  
13 existing pole barn used for storage on the property that's  
14 essentially sitting right on the property line. My  
15 understanding is that because they are now subdividing the  
16 property, it either needs to conform to current zoning  
17 which would mean a five foot setback from the property  
18 line, and/or a variance needs to be sought from the Zoning  
19 Board of Appeals. I spoke to the applicants. They do not  
20 want to remove it if they don't have to. They can't  
21 relocate it without destroying it so they'd like to pursue  
22 a variance with the ZBA.

23 CHAIRMAN EWASUTYN: Bryant, what are your  
24 recommendations at this point?

25 MR. COCKS: As Tom mentioned, that was my third

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comment.

My second comment was regarding the new residential lot area local law. I did forward a copy of the law to his office. That needs to be changed.

The zoning table needs to be revised to show the actual dimensions of the parent parcel. And the lot building surface coverage requirement should also be shown in the bulk table. It's not showing two foot contours for the current parcel. They either can show these contours or he can request a waiver of this requirement from the Planning Board.

The owner's consent note must be signed before the final approval can be granted.

Surveyor's seal and signature are required before final approval can be granted.

The Town of Newburgh Highway Department need to approve the new driveway entrance on Grand Avenue.

And the plans should also be forwarded to the Water Department for their review before final approval is granted.

CHAIRMAN EWASUTYN: Gerry, I notice you're looking at the code book. Is that in reference to the barn?

MR. CANFIELD: No.

CHAIRMAN EWASUTYN: No?

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Pat Hines, do you have anything to add?

MR. HINES: Yes. We just had a couple cleanup items.

The septic system note requiring the submission of an as-built plan prior to the Certificate of Occupancy needs to be added to the plans.

The highway superintendent's comments on the driveway location.

The Town of Newburgh Water System notes must be added. We provided them with our comments.

And we're suggesting that additional erosion sediment control be provided along the driveway as it's a relatively steep run down to the town road so that should be addressed. We sometimes have problems with driveways cutting against slopes like that.

But that's all we have. We would recommend a Negative Declaration. Sorry, the ZBA.

MR. BODENDORF: Most of those plan revisions have already been taken care of so on the next submission you'll see that reflected.

The comment about showing topography on the lot within the existing house and accessory structures, do we request that waiver at this time or ...

CHAIRMAN EWASUTYN: You could request it at this time.

MR. BODENDORF: I spoke to the Applicant. They,



1 - 78 BALMVILLE ROAD -

2 obviously, would rather not show that if it's not  
3 necessary. Since there are no improvements proposed in  
4 that area we'd like to get or request that waiver.

5 CHAIRMAN EWASUTYN: You've heard the presentation by  
6 Jon, is your first name?

7 MR. BODENDORF: Yes.

8 CHAIRMAN EWASUTYN: He would like the Board, based  
9 upon his presentation, to grant a waiver for not providing  
10 two foot contours.

11 I will poll the board members to see if they're in  
12 favor.

13 Frank.

14 BOARD MEMBER GALLI: Yes.

15 BOARD MEMBER BROWNE: Yes. Assuming Pat Hines doesn't  
16 make a comment on it.

17 MR. HINES: Yes, I'm fine with it. There are no  
18 improvements proposed in it. It would be a five acre  
19 survey shown, consistent with five acres.

20 BOARD MEMBER BROWNE: All right, fine. Yes.

21 BOARD MEMBER MENNERICH: Yes.

22 BOARD MEMBER PROFACI: Yes.

23 BOARD MEMBER FOGARTY: Yes.

24 CHAIRMAN EWASUTYN: All right. Then let the record  
25 show that the Planning Board is not requiring a providing

1 - 78 BALMVILLE ROAD -

2 of two-foot contour lines for the existing five acre parcel  
3 where the current house is located because there will be no  
4 change or additions to that parcel of land.

5 Mike Donnelly, do you want to talk to us about  
6 providing a letter to the Zoning Board of Appeals?

7 MR. DONNELLY: Yes. At your direction, I'll send a  
8 letter to the Zoning Board. This is a side yard variance  
9 for an existing structure that sits on the line, that  
10 although currently protected, will lose its protection upon  
11 subdivision. The Zoning Board has received a number of  
12 these. At your direction I'll send that letter.

13 You will have to apply for that variance.

14 MR. BODENDORF: Right.

15 MR. DONNELLY: The letter will just orient the Board  
16 as to where things stand.

17 MR. BODENDORF: Does the letter need to be sent to the  
18 Zoning Board before we make the application? Because we're  
19 ready to get that in.

20 MR. DONNELLY: I'll get the letter out tomorrow.

21 MR. BODENDORF: Great.

22 CHAIRMAN EWASUTYN: I'll move for a motion now to  
23 grant Conceptual Approval for the two-lot subdivision for  
24 78 Balmville Road.

25 BOARD MEMBER MENNERICH: So moved.

1 - 78 BALMVILLE ROAD -

2 BOARD MEMBER FOGARTY: Second.

3 CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich  
4 and a second by Tom Fogarty.

5 Any further discussion?

6 (No verbal response.)

7 CHAIRMAN EWASUTYN: I move for a roll call vote  
8 starting with Frank Galli.

9 BOARD MEMBER GALLI: Aye.

10 BOARD MEMBER BROWNE: Aye.

11 BOARD MEMBER MENNERICH: Aye.

12 BOARD MEMBER PROFACI: Aye.

13 BOARD MEMBER FOGARTY: Aye.

14 CHAIRMAN EWASUTYN: And myself. So carried.

15 (The motion was agreed and carried.)

16 CHAIRMAN EWASUTYN: Thank you, Jon.

17 MR. BODENDORF: Thank you very much.

18 (Time noted: 7:21 p.m.)

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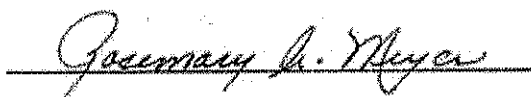
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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings herein, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

A handwritten signature in cursive script, reading "Rosemary A. Meyer", is written over a horizontal line.

ROSEMARY A. MEYER

Date Transcribed: August 1, 2011

GERALD F. CANFIELD  
CODE COMPLIANCE SUPERVISOR  
TELEPHONE: (845) 564-7801  
FAX LINE: (845) 564-7802

Permit No: 0-5750

File Date: 06/25/1984  
Expire Date: 12/26/1985

# BUILDING PERMIT

SEC-BLK-LOT: 43-3-47

Permit Fee: \$90.00  
C.O. Fee: \$0.00

A permit is hereby given by the Building Department, TOWN OF NEWBURGH, ORANGE COUNTY, N.Y., for the structure described herein:

Owner's Name: OVERTON, JOAN B (914)-561-6369  
Address: 78 BALMVILLE ROAD, NEWBURGH, NEW YORK, 12550

Architect's Name: RUGE, RAYMOND A AIA (914)-534-7188  
Address: 86 MAPLE ROAD, CORNWALL-ON-HUDSON, NEW YORK, 12520

Builder's Name: ROBIE, GREG (914)-534-7291  
Address: MINERAL SPRINGS ROAD, RD#1, HIGHLAND MILLS, 10930

Location of Structure: BALMVILLE ROAD, E/S

Material: FRAME No. Stories: 2.0 No. Families: 1

Dim. of Stru.: 31' X 20' No. Bedrooms: 2 No. Toilets: 1

Use of Stru.: CARETAKERS QRTS Dim. of Lot: 7.10 ACRES

Census Code: 101 No. Bathrooms: 1.0 Heating Plant: GAS HOT WATER

Remarks: CONVERSION OF CARRIAGE HOUSE TO CARETAKERS QTRS.  
ZBA APPROVED 6/84 NEVER TO BE RENTED CO3321/88

Appx. Cost: \$30000.00

#: 78

1. I am familiar with the Zoning and Building Ordinance of the TOWN OF NEWBURGH, and do hereby agree to abide by them.
2. The information stated above is correct and accurate.

Signature of Applicant

CODE COMPLIANCE DEPARTMENT

### IMPORTANT

1. A permit under which no work has commenced within six (6) months after issuance, shall expire by limitation, and a new permit must be secured before work can begin.
2. It is the responsibility of the owner and/or contractor to comply with all applicable town ordinances and to call for the required inspections at least one day in advance.

SEPTIC PERMIT:

Permit No: 0-5750