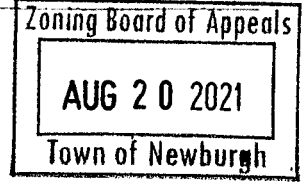


TOWN OF NEWBURGH

Crossroads of the Northeast

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

APPLICATION



OFFICE OF ZONING BOARD
(845) 588-4901

DATED: August __, 2021

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

I (WE) G. Williams Group, LLC PRESENTLY

RESIDING AT NUMBER 55 Carter Drive #104, Edison, New Jersey 08817

TELEPHONE NUMBER (732) 494-8370

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:

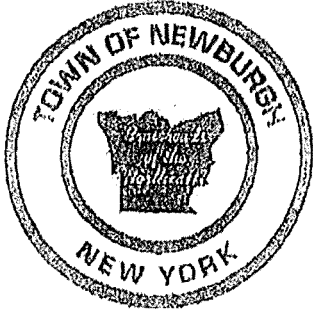
60-3-29.11 (TAX MAP DESIGNATION)

1431 NY-300, Newburgh (STREET ADDRESS)

IB (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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).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 185-11 (minimum side yard setbacks)



TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS
OLD TOWN HALL
303 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: August 12, 2021

4. DESCRIPTION OF VARIANCE SOUGHT: Minimum side yard setbacks 50' and 100' (both);

provided +/- 40.9' and +/- 91.4' respectively.

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

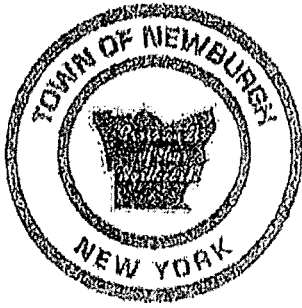
- a) UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE:
N/A

(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:
N/A

- c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:

N/A



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:

N/A

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:

SEE ATTACHED

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:

SEE ATTACHED

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

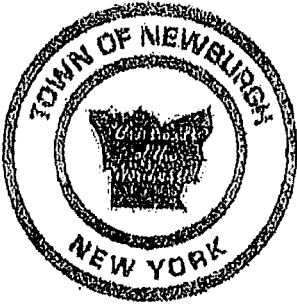
SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED



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):
SEE ATTACHED

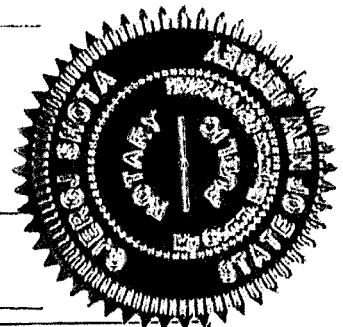
Simeet Desai

PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 13th DAY OF August, 2021 20

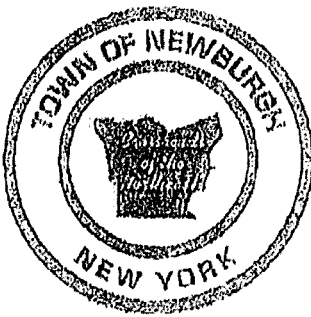
Shota Gjeraj
NOTARY PUBLIC



GJERGJ SHOTA
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires March 18, 2025

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)



TOWN OF NEWBURGH

Crossroads of the Northeast

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

PROXY

CONEW, LLC by Renat Yusufov, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 60 East 42nd Street, Suite 1942

IN THE COUNTY OF Manhattan AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF

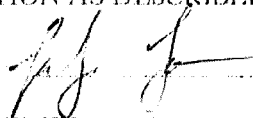
1431 NY-300, Newburgh, New York

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED Whiteman, Osterman & Hanna LLP, G. Williams Group, LLC and Colliers Engineering

TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: August 16, 2021


OWNER'S SIGNATURE


WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 17 DAY OF 8 2021


NOTARY PUBLIC

MOSES GANTZ
Notary Public, State of New York
No. 016A6320998
Qualified in Kings County
Commission Expires March 16, 2023

**Full Environmental Assessment Form
Part 1 - Project and Setting**

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. 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; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Home Goods		
Project Location (describe, and attach a general location map): 1431 NY-300, Newburgh, NY 12550 (SBL: 60-3-29.11, Town of Newburgh) on the west side of NYS Rt 300 approx. 900' south of NYS Rt 52		
Brief Description of Proposed Action (include purpose or need): The applicant proposes interior renovations to the existing retail building for a proposed ±21,969 sq. ft. Home Goods tenant. The Home Goods renovation will also include the construction of two (2) loading dock bays and a proposed trash compactor on the northern side of the building. Minor modifications to the existing drive aisle adjacent to the loading docks is also proposed.		
Name of Applicant/Sponsor: G William Group, LLC (Attn: Sumeet Desai)		Telephone: (732)-494-8370
		E-Mail: sdesai@gwglc.com
Address: 55 Carter Drive, #104		
City/PO: Edison	State: NJ	Zip Code: 08817
Project Contact (if not same as sponsor; give name and title/role):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Conew LLC, A Delaware limited liability company (c/o CoFinance, Inc.)		Telephone: (646) 344-3336
		E-Mail: ryusufov@cofinancegroup.com
Address: 60 East 42nd Street, Suite 1942		
City/PO: New York	State: NY	Zip Code: 10165

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Planning Board or Commission	Town of Newburgh Planning Board - Site Plan Approval	July 2021
c. City, Town or <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Village Zoning Board of Appeals	Town of Newburgh Zoning Board of Appeals - (2) Area Variances	TBD
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Orange Co. Planning: GML 239 Referral	TBD
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<p>i. Coastal Resources.</p> <p><i>i.</i> Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><i>ii.</i> Is the project site located in a community with an approved Local Waterfront Revitalization Program? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><i>iii.</i> Is the project site within a Coastal Erosion Hazard Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? Yes No

- If Yes**, complete sections C, F and G.
- If No**, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? Yes No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? Yes No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) Yes No

If Yes, identify the plan(s):

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? Yes No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
If Yes, what is the zoning classification(s) including any applicable overlay district?
IB (Interchange Business) District

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No
If Yes,
i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Newburgh

b. What police or other public protection forces serve the project site?
Town of Newburgh Police Department, New York State Police

c. Which fire protection and emergency medical services serve the project site?
Orange Lake Fire District

d. What parks serve the project site?
Algonquin Park, Cronomer Hill Park, Chadwick Lake Park

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Commercial

b. a. Total acreage of the site of the proposed action? 12.91 acres
b. Total acreage to be physically disturbed? 0.18 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 22.18 acres

c. Is the proposed action an expansion of an existing project or use? Yes No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) _____

ii. Is a cluster/conservation layout proposed? Yes No

iii. Number of lots proposed? _____

iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? Yes No
i. If No, anticipated period of construction: 6 months

ii. If Yes:
• Total number of phases anticipated _____
• Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
• Anticipated completion date of final phase _____ month _____ year
• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion	_____	_____	_____	_____
of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,

i. Total number of structures 1

ii. Dimensions (in feet) of largest proposed structure: 20.5 height; 125 width; and 190 length

iii. Approximate extent of building space to be heated or cooled: 21,969 square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No
 If Yes,

i. Purpose of the impoundment: _____

ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: _____

iii. If other than water, identify the type of impounded/contained liquids and their source. _____

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres

v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? Yes No
 (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
 If Yes:

i. What is the purpose of the excavation or dredging? _____

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____

iv. Will there be onsite dewatering or processing of excavated materials? Yes No
 If yes, describe. _____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? Yes No

ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? Yes No
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No
 If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No
 If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? Yes No
 If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No
 If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No
- Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project? Yes No
 If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No
 If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No
 If Yes:

i. Total anticipated liquid waste generation per day: _____ ±2,197 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____
 Sanitary wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No
 If Yes:

- Name of wastewater treatment plant to be used: City of Newburgh Wastewater Treatment Facility
- Name of district: Crossroads Sewer District
- Does the existing wastewater treatment plant have capacity to serve the project? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No

c. Is the project site presently used by members of the community for public recreation? Yes No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
If Yes,
i. Identify Facilities:
Unlimited Care, Inc. approx 1,250' southeast of the site (356 Meadow Ave #1, Newburgh NY 12550) is a home health care service.

e. Does the project site contain an existing dam? Yes No
If Yes:
i. Dimensions of the dam and impoundment:
• Dam height: _____ feet
• Dam length: _____ feet
• Surface area: _____ acres
• Volume impounded: _____ gallons OR acre-feet
ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
If Yes:
i. Has the facility been formally closed? Yes No
• If yes, cite sources/documentation: _____
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes – Spills Incidents database Provide DEC ID number(s): _____
 Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
 Neither database
ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ ±3.0 feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

SXC (Swartswood & Mardin Soils)	_____	55.5 %
Ca (Canandaigua Silt Loam)	_____	24.3 %
MdB (Mardin Gravelly Silt Loam)	_____	13.4 %

d. What is the average depth to the water table on the project site? Average: _____ ±1.5 feet

e. Drainage status of project site soils: Well Drained: _____ % of site
 Moderately Well Drained: _____ % of site
 Poorly Drained 100 % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: _____ 100 % of site
 10-15%: _____ % of site
 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No

If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters _____ Approximate Size 4.72 Acres
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100-year Floodplain? Yes No

k. Is the project site in the 500-year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:
 i. Name of aquifer: _____

<p>m. Identify the predominant wildlife species that occupy or use the project site: _____</p> <p>Typical Suburban Wildlife _____</p> <p>_____</p>	
<p>n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p>_____</p> <p>ii. Source(s) of description or evaluation: _____</p> <p>iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres 	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Species and listing (endangered or threatened): _____</p> <p>Indiana Bat _____</p> <p>_____</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Species and listing: _____</p> <p>_____</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p>	
E.3. Designated Public Resources On or Near Project Site	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, provide county plus district name/number: _____</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>i. If Yes: acreage(s) on project site? _____</p> <p>ii. Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p>ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. CEA name: _____</p> <p>ii. Basis for designation: _____</p> <p>iii. Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
<i>i.</i> Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District	
<i>ii.</i> Name: _____	
<i>iii.</i> Brief description of attributes on which listing is based: _____	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site?	
If Yes:	
<i>i.</i> Describe possible resource(s): _____	
<i>ii.</i> Basis for identification: _____	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes:	
<i>i.</i> Identify resource: <u>Algonquin Park (Local), Cronomer Hill Park (Local), Chadwick Lake Park (Local)</u>	
<i>ii.</i> Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): <u>Local Parks (3)</u>	
<i>iii.</i> Distance between project and resource: <u>0.9, 1.4, 2.4 respectively</u> miles.	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
<i>i.</i> Identify the name of the river and its designation: _____	
<i>ii.</i> Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	

F. Additional Information

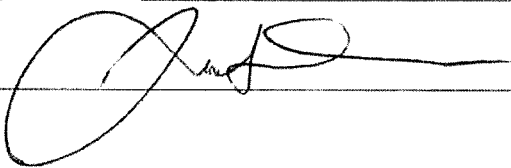
Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Justin E. Dates, RLA Date July 9, 2021

Signature  Title Senior Associate, Colliers Engineering & Design

Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

The screenshot shows a map of Newburgh, NY, with several planning districts outlined in black. The districts are labeled with codes such as 60-3-25.11, 60-3-25.2, 60-3-24, 60-3-23.1, 60-3-23.2, 60-3-23, 60-3-22.1, 60-3-22.2, 60-3-22, 60-3-21, 60-3-20, 60-3-19, 60-3-18, 60-3-17, 60-3-16, 60-3-15, 60-3-14, 60-3-13, 60-3-12, 60-3-11, 60-3-10, 60-3-9, 60-3-8, 60-3-7, 60-3-6, 60-3-5, 60-3-4, 60-3-3, 60-3-2, 60-3-1, 60-3-0. The map also shows major roads and landmarks. A legend at the bottom left lists data sources: USGS, Intermap, INCREMENT, NRCan, Esri, Japan, METI, Esri, China (Hong Kong), Esri, EMENTP, NRCan, Esri, Japan, METI, Esri, China (Hong Kong), Esri, Korea, Esri, Thailand, USGS, and OpenStreetMap contributors, and the GIS User Community.

B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes

E.2.o. [Endangered or Threatened Species - Indiana Bat Name]	
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	No
E.3.i. [Designated River Corridor]	No

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE
THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE



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

Coburgh, L.L.C., Coburgh III LLC
Cobell LLC
TO
Conew LLC

SECTION 60 BLOCK 3 LOT 30.01
30.11

RECORD AND RETURN TO:
(name and address)

Jill Feldman
Title Associates
825 Third Ave, 30th Floor
New York, NY 10022

THIS IS PAGE ONE OF THE RECORDING

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

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED MORTGAGE SATISFACTION ASSIGNMENT OTHER

PROPERTY LOCATION

- 2089 BLOOMING GROVE (TN) 4289 MONTGOMERY (TN)
- 2001 WASHINGTONVILLE (VLG) 4201 MAYBROOK (VLG)
- 2003 SO. BLOOMING GROVE (VLG) 4203 MONTGOMERY (VLG)
- 2289 CHESTER (TN) 4205 WALDEN (VLG)
- 2201 CHESTER (VLG) 4489 MOUNT HOPE (TN)
- 2489 CORNWALL (TN) 4401 OTHVILLE (VLG)
- 2401 CORNWALL (VLG) 4600 NEWBURGH (TN)
- 2600 CRAWFORD (TN) 4800 NEW WINDSOR (TN)
- 2800 DEERPARK (TN) 5089 TUXEDO (TN)
- 3089 GOSHEN (TN) 5001 TUXEDO PARK (VLG)
- 3001 GOSHEN (VLG) 5200 WALLKILL (TN)
- 3003 FLORIDA (VLG) 5489 WARWICK (TN)
- 3005 CHESTER (VLG) 5401 FLORIDA (VLG)
- 3200 GREENVILLE (TN) 5403 GREENWOOD LAKE (VLG)
- 3489 HAMPTONBURGH (TN) 5405 WARWICK (VLG)
- 3401 MAYBROOK (VLG) 5600 WAWAYANDA (TN)
- 3689 HIGHLANDS (TN) 5889 WOODBURY (TN)
- 3601 HIGHLAND FALLS (VLG) 5801 HARRIMAN (VLG)
- 3889 MINISINK (TN) 5809 WOODBURY (VLG)
- 3801 UNKNOWNVILLE (VLG)
- 4089 MONROE (TN)
- 4001 MONROE (VLG)
- 4003 HARRIMAN (VLG)
- 4005 KIRYAS JOEL (VLG)
- 9999 HOLD

NO. PAGES 10 CROSS REF. _____
CERT. COPY _____ ADD'L X-REF. _____
MAPS _____ PGS. _____
PAYMENT TYPE: CHECK
CASH _____
CHARGE _____
NO FEE _____

Taxable
CONSIDERATION \$ _____
TAX EXEMPT _____
Taxable
MORTGAGE AMT. \$ _____

MORTGAGE TAX TYPE:
 (A) COMMERCIAL/FULL
 (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 Stewart

RECORDED/FILED
03/22/2013/ 16:08:26
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY
FILE#20130031739
DEED C / BK 13531PG 0070
RECORDING FEES 345.00
TTX# 004770 T TAX 0.00
Receipt#1580905 dab

STATE OF NEW YORK (COUNTY OF ORANGE) SS:
I, ANN G. HABBIE, 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 ON MARCH 22, 2013
AND THE SAME IS A CORRECT TRANSCRIPT THEREOF.
IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND APPLIED MY OFFICIAL SEAL
August 17, 2021 *Ann G. Habbie*
COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS, ORANGE COUNTY, NY



BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS

THIS IS A LEGALLY BINDING INSTRUMENT. IF NOT FULLY UNDERSTOOD, WE RECOMMEND ALL PARTIES TO THE INSTRUMENT CONSULT AN ATTORNEY BEFORE SIGNING.

THIS INDENTURE, made the ^{15th} day of MARCH, 2013

BETWEEN

Coburgh, L.L.C., a New York limited liability company, with an address c/o Cofinance Equities, LLC, 505 Main Street, Suite 208, Hackensack, NJ 07601, as to Parcel 1 herein,

Coburgh II, LLC, a New York limited liability company, with an address c/o Cofinance Equities, LLC, 505 Main Street, Suite 208, Hackensack, NJ 07601, as to Parcel 2 herein, and

Cobell, LLC, a New York limited liability company, with an address c/o Cofinance Equities, LLC, 505 Main Street, Suite 208, Hackensack, NJ 07601, as to Parcel 3 herein,

party of the first part, and

Conew LLC, a Delaware limited liability company with an address % Cofinance Equities, LLC, 505 Main Street, Suite 208, Hackensack, NJ 07601

party of the second part:

WITNESSETH, that the party of the first part, in consideration of ten dollars, lawful money of the United States, and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party second part, his heirs and assigns forever, all

See Schedule "A" annexed hereto and made part hereof.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all 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, his heirs and assigns forever.

AND the party of the first part covenants that he has not done or suffered anything whereby the said premises have been encumbered in any way whatever.

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 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.

- (3) Southwesterly and northwesterly along the northerly side of Meadow Hill Road as the same has been Offered for Dedication to the State of New York and the Town of Newburgh for highway widening purposes pursuant to Filed Map #171-98, the following two (2) courses and distances:
- (a) South 67 degrees 06 minutes 53 seconds West 32.21 feet to a point, thence;
 - (b) North 74 degrees 35 minutes 39 seconds West 267.81 feet to the southeasterly corner of lands of Coburgh LLC (Lot 1 on Filed Map #171-98), being the southwesterly corner of the premises and the point or place of BEGINNING.

PARCEL 3

ALL those certain plots, pieces or parcels of land, situate, lying and being in the Town of Newburgh, County of Orange and State of New York, shown and designated as LOT 2 on a certain subdivision plat entitled "NEWBURGH TOWNE CENTER" made by Parker Associates, Architects/Planning and Vincent J. Doce Associates, Planning, Surveyors, Engineers, Project Consultants - Land Consultants and filed in the Orange County Clerk's Office on September 30, 1998 as Map #171-98 and Lot No. 1 on a certain plan entitled "Lot Line Change Plan of NEW YORK TELEPHONE CO. & COBURGH LLC," dated November 25, 1998, last revised December 9, 1999, prepared by Vincent J. Doce Associates and filed in the Orange County Clerk's Office on December 13, 1999 as Map #283-99, and when said lots on the aforesaid filed maps are taken together as a single tract they are more particularly bounded and described as follows:

BEGINNING at a point on the westerly side of Union Avenue - New York State Highway Route 300, said point being the southeasterly corner of the premises hereinafter to be described, also being the southeasterly corner of Lot 2 on Filed Map #171-98, being the northeasterly corner of Lot 3 on Filed Map #171-98, and running thence;

- (1) Northwestery, southwesterly, northwesterly, northeasterly and northwesterly along the common boundary line between Lots 3 and 1 on Filed Map #171-98 to the south and Lot 2 on Filed Map #171-98 to the north, the following five (5) courses and distances:
 - (a) North 71 degrees 12 minutes 18 seconds West 146.36 feet to a point, thence;
 - (b) South 16 degrees 37 minutes 23 seconds West 12.50 feet to a point, thence;
 - (c) North 71 degrees 31 minutes 46 seconds West 589.31 feet to a point, thence;
 - (d) North 16 degrees 37 minutes 23 seconds East 121.00 feet to a point, thence;
 - (e) North 73 degrees 22 minutes 37 seconds West 299.99 feet to a point in the easterly right-of-way boundary of the New York State Thruway - Interstate Route 87, being the southwesterly corner of the premises herein being described and being the northwesterly corner of Lot 1 on Filed Map #171-98, thence;
- (2) Northwestery along the westerly line of the premises herein being described and the easterly right-of-way boundary of the New York State Thruway - Interstate Route 87, the following two (2) courses and distances:
 - (a) North 04 degrees 51 minutes 06 seconds West 288.71 feet to the southwesterly corner of Lot No. 1 on Filed Map #283-99, thence;
 - (b) North 04 degrees 39 minutes 37 seconds West 214.60 feet to the southwesterly corner of lands now or formerly of Harris (Tax Lot 60-3-26.1) and being the northwesterly corner of Lot No. 1 on Filed Map #283-99, thence;
- (3) South 73 degrees 22 minutes 37 seconds East along the northerly line of the premises herein being described and the southerly line of said lands now or formerly of Harris (Tax Lot 60-3-26.1), the distance of 877.87 feet to the northwesterly corner of lands now or formerly of New York Telephone Company (Tax Lot 60-3-28), thence;

- (4) Southeasterly along the common boundary line between Lots No. 1 and No. 2 on Filed Map #283-99, the following four (4) courses and distances:
 - (a) South 16 degrees 52 minutes 56 seconds West 169.77 feet to a point, thence;
 - (b) South 56 degrees 03 minutes 01 seconds East 21.20 feet to a point, thence;
 - (c) South 73 degrees 41 minutes 33 seconds East 65.00 feet to a point, thence;
 - (d) South 55 degrees 48 minutes 47 seconds East 80.34 feet to a point in the northerly line of Lot 2 on Filed Map #171-98, thence;
- (5) South 73 degrees 22 minutes 37 seconds East along the southerly line of said lands now or formerly of New York Telephone Company (being Lot No. 2 on Filed Map #283-99, Tax Lot 60-3-28) and the easterly portion of the northerly line of Lot 1 on Filed Map #171-98, the distance of 196.97 feet to a point in the westerly side of Union Avenue - New York State Highway Route 300, thence;
- (6) South 19 degrees 03 minutes 19 seconds West along the westerly side of Union Avenue - New York State Highway Route 300, the distance of 402.08 feet to the northeasterly corner of Lot 3 on Filed Map #171-98, being the southeasterly corner of the premises hereinabove described and the point or place of BEGINNING.

AS TO PARCELS 1 THROUGH 3

TOGETHER WITH the appurtenant rights contained in that certain Reciprocal Easement and Operation Declaration made as of the 30th day of September, 1998 by Coburg LLC and recorded in the Orange County Clerk's Office on October 2, 1998 in Liber 4883 of Deeds, page 19 and as re-recorded on October 13, 1998 in Liber 4891 of Deeds, page 1, and as the same have been amended by that certain First Amendment to Reciprocal Easement and Operation Declaration made as of the 21st day of November, 2000 by Coburgh LLC, Cobell LLC and Coburgh II LLC and recorded in the Orange County Clerk's Office on December 27, 2000 in Liber 5430 of Deeds, page 187, and further amended by that certain Second Amendment to Reciprocal Easement and Operation Declaration made as of the 21st day of November, 2000 by Coburgh LLC, Cobell LLC and Coburgh II LLC and recorded in the Orange County Clerk's Office on December 27, 2000 in Liber 5430 of Deeds page 197, and further amended by that certain Third Amendment to Reciprocal Easement and Operation Declaration made as of the 28th day of October, 2002 by Coburgh LLC, Cobell LLC and Coburgh II LLC and recorded in the Orange County Clerk's Office on November 29, 2002 in Liber 6082 of Deeds, page 318.

WHITEMAN
OSTERMAN
& HANNA LLP

Attorneys at Law
www.woh.com

One Commerce Plaza
Albany, New York 12260
518.487.7660

Thomas A. Shepardson
Partner
518.487.7663 phone
tshepardson@woh.com

August 17, 2021

Darrin J. Scalzo Chairman, Chairman
Town of Newburgh Zoning Board of Appeals
Town of Newburgh Town Hall
1496 Route 300
Newburgh, New York 12550

***RE: Newburgh Towne Center – Home Goods
Variance Application - Side Yard Setbacks for Rear Loading Docks***

Dear Chairman Scalzo:

This firm represents Conew, LLC, a Delaware limited liability Company (c/o CoFinance, Inc.) (“CoFinance”), the owner of the Newburgh Towne Center shopping center located at the intersection of Meadow Hill Road and Union Avenue – NYS Route 300 in the Town of Newburgh, New York (the “Project Site”). Together with the applicant, G William Group, LLC, CoFinance is seeking to re-fit approximately 21,969 SF of currently vacant retail space within the shopping center for a new tenant, a Home Goods retail store (the “Project”). To accommodate Home Goods, a new loading dock area is proposed in the rear of the building. A portion of the loading dock area will slightly encroach into the required setback and, therefore, an area variance is being sought from the Zoning Board of Appeals.

The Project made an initial appearance before the Town Planning Board on August 5, 2021 and the Planning Board referred this matter to the Zoning Board of Appeals for a determination regarding the variances. The minor expansion for the loading dock proposes a minimum side yard setback of ±40.9 feet (50 feet is required) and ±91.4 feet for the minimum of both side yards (100 feet is required), requiring an area variance for both of these related setbacks. The Project Site is located in the Town’s Interchange Business (IB) zoning district.

We have enclosed the following materials to complete the application for the Zoning Board’s consideration:

1. Original and 10 duplicate copies of completed application for area variance;

2. Original and 10 duplicate copies of completed Proxy;
3. Eleven duplicate narratives in support of area variance;
4. Eleven Long Environmental Assessment Form, Part 1;
5. Eleven Site Plans;
6. Eleven sets of four photographs;
7. Eleven duplicate copies of the Planning Board's referral letter;
8. Original and 10 duplicate copies of the certified deed to the property;
9. Original paid receipt Town Clerk;
10. Eleven duplicate copies of the Assessor's list of property owners; and
11. Application fee in the amount of \$1,050 (2 variances x \$500; plus \$50 publication fee).

We respectfully request that this matter be placed on the September 23, 2021 Zoning Board of Appeals agenda.

If you have any questions on this submission, please feel free to contact me or Justin Dates at Colliers Engineering & Design CT, PC. We look forward to working with the Board and its consultants on completing this exciting project for the Town of Newburgh.

Very truly yours,

/s/ Thomas A. Shepardson

Thomas A. Shepardson

Enclosures

Cc: Renat Yusufov (CoFinance) (w/enclosures)
Justin Dates (Colliers) (w/enclosures)
Sumeet Desai (w/enclosures)
Nicholas Gorski (w/enclosures)

James R. Loeb
Richard J. Drake, *retired*
Glen L. Heller*
Marianna R. Kennedy
Gary J. Gogerty
Stephen J. Gaba
Adam L. Rodd
Dominic Cordisco
Ralph L. Puglielle, Jr.
Nicholas A. Pascale

Alana R. Bartley
Aaron C. Fitch
Judith A. Waye
Michael Martens

Jennifer L. Schneider
Managing Attorney

*L.L.M. in Taxation

August 12, 2021

BY EMAIL ONLY

Darrin J. Scalzo, Chairman
Zoning Board of Appeals
Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York 12550

Re: Newburgh Towne Center / Home Goods / Planning Board Project No. 21-16

Dear Chairman Scalzo and Board Members:

At the Planning Board's August 5, 2021 meeting, the Planning Board resolved to refer this application to the Zoning Board of Appeals for its consideration of the following area variances required for this project.

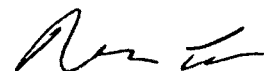
In particular, the applicant seeks site plan approval from the Planning Board to re-fit approximately 21,969 SF of currently vacant retail space within the Newburgh Towne Center shopping center for a new tenant, a Home Goods retail store (the "Project"). To accommodate Home Goods, a new loading dock area is proposed in the rear of the building. A portion of the loading dock area will slightly encroach into the required setback and, therefore, an area variance will be sought from the Zoning Board of Appeals. The project requires the following area variances and/or interpretation:

- 1) The proposed project does not meet the existing side yard requirement: 40.9 foot provided where 50 feet is required; and
- 2) For both side yards 91.4 feet is provided where 100 feet is required.

The Planning Board has not declared its intent to serve as lead agency so that the Zoning Board of Appeals may consider and process this application without the need to wait for the Planning Board to conclude its environmental review of the site plan amendment.

Thank you for your consideration of this matter.

Very Truly Yours,



Dominic Cordisco

cc:

David A. Donovan, Esq., Attorney for the ZBA
Town of Newburgh Planning Board
Patrick J. Hines, Planning Board Consulting Engineer

**TOWN OF NEWBURGH
ZONING BOARD OF APPEALS**

NEWBURGH TOWNE CENTER

AREA VARIANCE - SIDE YARD SETBACKS

I. INTRODUCTION

A. The Newburgh Towne Center Site

The Newburgh Towne Center is a fully approved and fully integrated shopping center site that is located at the intersection of Meadow Hill Road and Union Avenue – NYS Route 300, and immediately west of the NYS Thruway in the Town of Newburgh, New York. The overall shopping center site is ±22.2 acres and consists of three tax map parcels. The existing buildings on-site consists of a ±72,996 sq. ft. mixed retail building, a ±5,011 sq. ft. cellular retail store building, associated parking & loading, and stormwater management areas currently exist on the property. The entire Newburgh Towne Center includes a Stop & Shop and a former bank. The entire area is commercial in nature with commercial uses existing to the north and south of the property.

There are two ingress and egress points – one from NYS Route 300 on the east side of the property, and an entrance from Meadow Hill Road to the south. A portion of the overall site contains a delineated federal wetland, which will remain undisturbed.

The site is located within the Town of Newburgh IB (Interchange Business) zoning district and a “shopping center” is a permitted use, subject to site plan approval from the Planning Board.

The portion of the Newburgh Towne Center site which is subject to this area variance application is ±12.91-acre in size (Tax Map No. 60-3-29.11) (“Project Site”). The Project Site contains several retail establishments, including the anchor tenant, a Marshall’s Department Store.

B. The Application for Area Variances

The owner of the shopping center is currently seeking Site Plan approval from the Town of Newburgh Planning Board in connection with interior renovations to the existing vacant retail space adjacent to Marshall’s for a proposed ±21,969 sq. ft. Home Goods tenant. The Home Goods interior renovation, however, will also require the construction of two new (2) loading dock bays and a proposed trash compactor on the northern side of the building to serve the new use.

As a result, the project complies with the IB Zoning bulk requirements for a shopping center use, except for the minimum side yard (one and both) setback requirements caused by the need for the new loading docks. The minor expansion for the loading dock proposes a minimum

side yard setback of ± 40.9 feet (50 feet is required) and ± 91.4 feet for the minimum of both side yards (100 feet is required),¹ requiring an area variance for both setbacks.

The proposed loading docks will also require an expansion of the adjacent paved drive aisle to maintain a minimum aisle width of 24 feet for two-way circulation. No additional parking spaces are necessary as the current parking is in excess of the required spaces for the shopping center.

Stormwater from these minor site modifications will be connected to the existing drainage improvements.

The site is located in the Town of Newburgh Consolidated Water District and the Crossroads Sewer District. Water and sewer lines exist within the site and existing services for the tenant space will be modified for the proposed tenant as required.

On August 5, 2021, the Applicant appeared before the Newburgh Planning Board as part of the site plan review process. At the Planning Board's August 5, 2021 meeting, the Planning Board resolved to refer this application to the Zoning Board of Appeals for its consideration of these variance.

II. APPLICATION OF TOWN LAW §267-b CRITERIA

Due to the new loading docks necessitated by the requirements of the new retail tenant, Home Goods, the project will require a variance to the minimum side yard setback requirements. As noted above, the minimum side yard setback of 50 feet is required will not be met as the new loading docks will be ± 40.9 feet, and the minimum of both side yards of 100 feet is not met with the total of ± 91.4 feet.

A. BALANCING TEST: BENEFITS/DETRIMENTS

In making its determination with respect to the requested area variances, the Zoning Board of Appeals, pursuant to Section 267-b(3)(b) of the Town Law, must take into consideration the benefit to applicant if the side yard setback variances are granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by granting such variances.

The proposed minor encroachment into the side yard setbacks to allow the construction of two loading docks to better and more efficiently serve a new and needed tenant at the shopping center, and will assist the shopping center to be revitalized to attract a new tenant and to ensure its long term viability as a community asset into the future. Without the variances, it would be expected that the shopping center will continue to exhibit vacant tenant spaces which will benefit no one. Similar shopping centers in the area and across the country, due to the COVID-19 pandemic, are experiencing a downturn in keeping their tenants, or re-tenanting, within brick and

¹ Note, the $\pm 91.4'$ is a combination of linear feet between the Marshall's building side yard and the existing AT&T store side yard. The total side yards for the Marshall's building are well over 100 feet, which would not necessitate a total side yard setback variance.

mortar shopping centers, and it is the intent of the owner of the shopping center to be proactive to avoid any potential downturn impacts.

As more fully set forth below, granting this variance will benefit the Newburgh Towne Center by allowing one of Newburgh's community assets to continue to flourish and provide essential services to the Town.

The requested variance will have no detriment to the health, safety, and general welfare of the neighborhood or community. Instead, the granting of the requested variance for this addition will be beneficial to the neighborhood and community.

B. STATUTORY CRITERIA

When making a benefits/detriment analysis, Town Law Section 267-b(3)(c) requires the Zoning Board of Appeals to consider the following five criteria.

(1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances.

There will be no undesirable change produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the side yard area variances. The site is zoned IB (Interchange Business) and is located adjacent to the NYS Thruway and numerous other commercial businesses in this commercial zoning district. Its setting is in a highly commercial area at Meadow Hill Road and Union Avenue – NYS Route 300.

In fact, there will be no appreciable change in the operation or access to the shopping center. The area is currently impervious surface. The perimeter road will be slightly shifted to accommodate the loading docks, a few light poles will be relocated and no excess parking spaces will be discontinued.

The area is characterized by numerous retail and commercial businesses and is located in an IB Commercial District. The properties in the neighborhood of the Newburgh Towne Center are used primarily for retail, hospitality, and commercial services. The new tenant, Home Goods, will be located in the location previously occupied by other retail/commercial space. The loading docks will be located to the rear of the space to better serve Home Goods in an area of the shopping center that sees very little pedestrian and vehicular traffic.

The re-tenancing of existing retail space, including the loading docks for Home Goods will be consistent with the existing character of the neighborhood and will not change the character of the neighborhood. The redevelopment of the existing retail space will benefit nearby properties located within the neighborhood, as well as retail stores in the Newburgh Towne Center, because the addition of the Home Goods will attract more retail shoppers from the area to the Newburgh Towne Center, which will provide a positive and desirable "spin-off" effect on other retail businesses in the Town of Newburgh that surround the Newburgh Towne Center and on other stores in the Newburgh Towne Center.

(2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

There is no other feasible alternate method for Newburgh Towne Center to locate the loading docks on the Project Site. The loading docks are required to better serve the new Home Goods use and needs to be located to the rear of the existing building on the site. The loading docks must occur at this location because it is the only practical location for the loading docks, and must be contiguous to the new re-tenanted space. In addition, if required to comply with the setback requirements, the loading docks would simply be situated within the existing parking facilities away from the existing building it is meant to serve. Thus, the side yard setbacks for the loading docks could be met if located at another location on the Project Site but would be completely unfeasible.

Without the variance, the Newburgh Towne Center will not be able to achieve its redevelopment goals and attract this new tenant, and potential future new tenants to the shopping center to ensure its long term viability. Re-occupancy of the vacant retail space is essential to the continued economic viability of Newburgh Towne Center. The minimum side yard variances are necessitated by the required loading docks which has been imposed upon owner by the new tenant, Home Goods, as a condition of construction and operating its new store at the Newburgh Towne Center. When completed, the changes for the new loading facilities will be imperceptible from the existing conditions at the site.

Without the variance, Applicant will be unable to occupy the vacant retail space with this new retail tenant. In addition, Newburgh Towne Center will continue to be somewhat unattractive to retail shoppers if the vacant retail space remains vacant, which will result in an economic detriment to the retail stores in the neighborhood and in Newburgh Towne Center, and to Applicant.

Accordingly, there are no viable alternatives for the Newburgh Towne Center to pursue, other than obtaining the granting of the area variance.

(3) Whether the requested area variance is substantial.

The variance is not substantial. The Project proposes a loading dock addition to the rear of a commercial shopping center in a heavily commercial area that will slightly encroach into the side yard setbacks without any impacts whatsoever. The approximate 9-foot variance on one side yard of the shopping center causes the need for the second side yard variance. Upon completion, the 9-foot encroachment will be imperceptible from existing conditions in this highly commercial area.

Substantiality also should not be simply a mathematical computation. In context, a common sense examination of the request should be undertaken to determine the substantiality of the relief requested, instead of merely examining the mathematical deviation from the zoning requirements. The Project must be examined in its entirety. The effects of the variance and the overall improvements must be considered to determine whether the deviations from the mathematical limitations of the zoning ordinance are truly substantial.

The effects of the variance on the adjoining properties, and the improvements must be considered to determine whether the deviations from the mathematical limitations of the zoning ordinance are substantial. There are none. There are no adverse impacts as a result of the issuance of the variances. The granting of the variances will not change the existing configuration or use of the Newburgh Towne Center from what has already been previously approved by the Planning Board. The shopping center, as a whole, will comply in all respects with the Zoning Ordinance. The variances are needed for loading docks to accommodate the new Home Goods tenant at the shopping center and lender construction financing issues.

Accordingly, such variance is not substantial, particularly when the project is viewed in context as a fully integrated pre-existing shopping center. The Project is intended to assist in the revitalize the Newburgh Towne Center and insure its long term viability as an important community asset. The location of the loading docks will be an imperceptible change to the site upon completion. A commonsense appraisal of the circumstances for the requested variances required for the loading docks to the Newburgh Towne Center results in a conclusion that the variance is not substantial.

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The area variances will not have an adverse impact on the physical and environmental conditions in the neighborhood. This project is a Type 2 action under SEQRA requiring no further environment review as it has been predetermined to not have any potential significant adverse environmental impacts. See, 6 NYCRR 617.5(c)(9) and (16). Alternatively, at the discretion of the Board, a negative Declaration may be issued.

Newburgh Towne Center is situated in a commercial area and bordered by Interstate 87, and other numerous commercial businesses in the immediate commercially zoned area. The re-occupation of the vacant retail space with Home Goods is consistent with the existing retail businesses and the surrounding neighborhood. The quality of life and business of the neighbors and the community-at-large will not be detrimentally affected by the Home Goods, or by the granting of the requested variances for the loading docks that will serve Home Goods. There will be no appreciable change in traffic volumes. The water and sewer requirements will not change significantly, and the proposed redevelopment will not require any changes to the Town's existing infrastructure. There will be no new impervious surfaces created.

Public water and sewer requirements will essentially remain unchanged. The new tenant's loading docks will have no adverse effects on the physical and environmental conditions on the site or of the neighborhood.

The Project will have no adverse effects on the physical and environmental conditions on the site or of the neighborhood.

(5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

The area variance required is not self-created.

The side yard setback variances required due to the need for loading docks to better serve the new retail tenant, Home Goods, is not self-created. The loading docks are an essential part of the successful operation of the store, without which there is no project. The resulting side yard setback variances have been imposed on the Applicant by Home Goods as a required condition of the development of the Project. Without the Project, the vacant space within the shopping center may remain vacant and lead to its decline. The variances would be unnecessary if Applicant were not required by the Home Goods to provide an adequate and suitable loading dock area for Home Goods.

Furthermore, even if the ZBA determined that the hardship was self-created, Town Law Section 267-b(3)(b)(5) provides that it would not preclude the ZBA from granting the variances.

III. THE ZONING BOARD, IN THE GRANTING OF THE AREA VARIANCE, SHALL GRANT THE MINIMUM VARIANCE THAT IT SHALL DEEM NECESSARY AND ADEQUATE AND AT THE SAME TIME PRESERVE AND PROTECT THE CHARACTER OF THE NEIGHBORHOOD AND THE HEALTH, SAFETY AND WELFARE OF THE COMMUNITY

The area variance is the minimum necessary to preserve and protect the character of the neighborhood and the health, safety and welfare of the community. No potential significant adverse environmental impacts have been identified as a result of the Project, as proposed. The Project will help revitalize the Newburgh Towne Center, an essential community asset.

The side setback variances for the loading docks are the minimum necessary to alleviate the requirements imposed by Home Goods. Upon completion of the loading docks, there will be an imperceptible change to the rear of the shopping center which typically receives very little pedestrian and vehicular traffic.

The area variance is the minimum necessary and will preserve and protect the character of the neighborhood and the health, safety and welfare of the community now and in the future. No potential significant adverse environmental impacts have been identified as a result of the Project.

IV. CONCLUSION

In making its determination to grant these side yard variances, the ZBA must consider the benefit to Newburgh Towne Center if the variance is granted, as weighed against the minimal, if any, detriment to the health, safety and welfare of the neighborhood or community by such grant. In so doing, and considering all of the above factors, since each weigh in favor of Newburgh Towne Center, it is appropriate to grant the requested area variance.



PHOTO #1



PHOTO #2



PHOTO #3



PHOTO #4