



Orange County Department of Planning  
Application for Mandatory County Review of Local Planning Action  
(Variances, Zone Changes, Special Permits, Subdivisions)

To be completed by Local Board having jurisdiction.

To be signed by Local Official.

TONZBA

TOWN OF Newburgh

MUNICIPALITY: ZONING BOARD of Appeals, TAX MAP ID: 75-1-36.2  
(Section-Block-Lot)

Local File #: 2267-11

Project Name: \_\_\_\_\_

Applicant: JPR Holding LLC / John Page

Address: 1456 Route 55, Lagrangaville NY 12540

Attorney, Engineer, Architect: Hudson Land Design

Location of Site: Route 32 / Chestnut Lane / Rockwood Drive  
(Street, highway, nearest intersection)

Size of Parcel: 8.8 acres Existing Lots: \_\_\_\_\_ Proposed Lots/Units \_\_\_\_\_

Present Zoning District: B & R-3

TYPE OF REVIEW:

Special Use Permit\* (SUP): \_\_\_\_\_

Variance\* USE (VU): To build single family residence on B zone lot

AREA (AV): \_\_\_\_\_

Zone Change\* FROM: \_\_\_\_\_ TO: \_\_\_\_\_

Zoning Amendment\*\* To Section: \_\_\_\_\_

Subdivision Major \_\_\_\_\_ Minor \_\_\_\_\_

Sketch

Preliminary

Final

DATE: 1/10/12

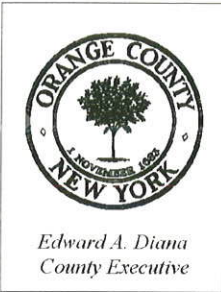
Grace Cardone

CHAIRPERSON, Signature and Title  
ZONING BOARD of Appeals

\*Cite Section of Zoning Regulations where pertinent.

FOR COUNTY USE ONLY

County ID # \_\_\_\_\_



## ORANGE COUNTY DEPARTMENT OF PLANNING

DAVID CHURCH, AICP  
COMMISSIONER

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GOSHEN, NEW YORK 10924-2124  
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### **County Reply – Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l, m, & n**

**Local Referring Board:** Town of Newburgh Zoning Board

**Referral ID #:** NBT05-12M

**Applicant:** JPJR Holding, LLC/John Page

**Tax Map #:** 75-1-36.2

**Project Name:** None Provided

**Local File #:** 2267-11

**Proposed Action:** Use Variance allowing a single family home to be constructed in a commercial zone.

**Reason for County Review:** Project Site is within 500 feet of N.Y.S. Route 32.

**Date of Full Statement:** January 10, 2012

#### **Comments:**

County Planning is in receipt of the GML §239 referral for the above referenced Project. Based upon our review of the submitted materials, our office has found no evidence that significant inter-municipal or county-wide impacts would result from its approval. Our office recommends that the Board make a decision only after the Applicant adequately provides evidence of an unnecessary hardship imposed by the applicable zoning regulations and restrictions. County Planning would like to include the following as advisory comments:


1. The Applicant makes a case of an economic hardship should they undertake the design, engineering, construction and renting of any development associated with the portion of the Project Site in the Business District as a commercial property. There is no information provided as to the possibility of simply subdividing the portion of the Project Site in the Business District so that it is a legal lot under the *Zoning Law* and then marketing if for sale, allowing a future interested party to design, develop and construct a use that is suited for their needs and that plays into the commercial corridor of N.Y.S. Route 32.

Additionally, there is no discussion as to the feasibility of working with the neighboring parcel to gain access to the portion of the Project Site within the Business District. Another option is to evaluate providing access from Chestnut Lane in order to contend with the “impractical and extremely costly” design and construction to access N.Y.S. Route 32.

#### **County Recommendation: Local Determination**

**Date:** January 24, 2011

**Prepared by:** Chad M. Wade, R.L.A.  
Planner



**David Church, AICP**  
Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available online at [www.orangecountygov.com/planning](http://www.orangecountygov.com/planning).





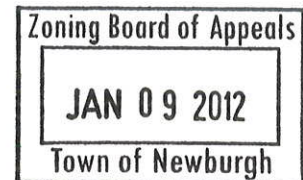
*Civil & Environmental Engineering Consultants  
174 Main Street, Beacon, New York 12508  
Phone: 845-440-6926 Fax: 845-440-6637  
www.HudsonLandDesign.com*

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December 28, 2011

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



Re: Rockwood Drive Subdivision (Town Project #2011-19)  
Tax ID: 75-1-36.2  
Request for Use Variance

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 (ZBA) in accordance with Town requirements. The  $\pm$ 8.8-acre vacant parcel is located on Route 32, Chestnut Drive and Rockwood Drive in the Town of Newburgh, and is identified as Tax ID 75-1-36.2. A portion of the property (along Route 32) is located in the B Zoning District, and the remainder is Zoned R3.

The Applicant, who is the Owner of the parcel, is seeking to subdivide the property into eleven (11) single family residential building lots, one of which would be located within the commercially zoned portion of the property, which necessitates securing a Use Variance from the ZBA. 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 Cover Sheet showing all pertinent zoning information and eleven (11) copies of the Subdivision Plat;
- Four (4) photos of the property taken at different angles;
- Application fee in the amount of \$200;
- Notice of Disapproval of Building Permit Application dated December 9, 2011;

- A certified copy of the property 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: John Page, Jr.  
Daniel G. Koehler, P.E. (HLD File)

TOWN OF NEWBURGH

*Crossroads of the Northeast*

OLD TOWN HALL  
308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550  
(845)564-7801

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

File No. 2267-11

Date: December 9, 2011

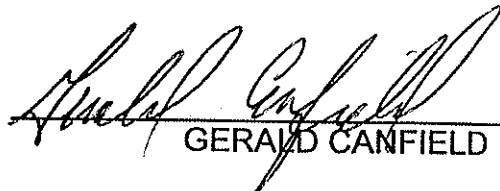
To: JOHN PAGE JR/JPJR HOLDINGS, LLC  
1456 ROUTE 55  
LAGRANGEVILLE, NY 12540

SBL 75-1-36.2  
ADD: Rt32/Chestnut L/Rockwd D  
ZONE B & R-3

PLEASE TAKE NOTICE that your application dated December 8,  
20 11 for permit to build a Single-Family residence in a B Zone  
At the premises located at Route 32/Chestnut Lane/Rockwood Drive

Is returned herewith and disapproved on the following grounds:

**BULK TABLE - SCHEDULE 7 - COLUMN C - PERMITTED USES -  
PERMITS ONLY EXISTING DWELLING UNITS (185 - 10 - B)**

  
GERALD CANFIELD

Cc: Town Clerk & Assessor (300')  
File

APPLICATION TO THE ZONING BOARD OF APPEALS, TOWN OF NEWBURGH

DATED: 12/21/11

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

I (WE) John Page, Jr. PRESENTLY

RESIDING AT NUMBER 1456 Route 55, LaGrangeville, NY 12540

TELEPHONE NUMBER 845-227-7243

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

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

1. LOCATION OF THE PROPERTY:

75-1-36.2 (TAX MAP DESIGNATION)

Rockwood Dr/Chestnut Dr/Route 32 (STREET ADDRESS)

R3 & B (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 185-10 (Allowable Uses)  
\_\_\_\_\_  
\_\_\_\_\_

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: 12/9/11
  - b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: \_\_\_\_\_
4. DESCRIPTION OF VARIANCE SOUGHT: Use variance to allow a single family residential dwelling in the area of the property that is Zoned B
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:  
The costs to construct a 1,500 square foot commercial building greatly outweigh what the Applicant can reasonably expect to receive in return for rent over a period of time (see attached statement).
- (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:  
To provide a conforming use within the area zoned B, which constitutes approximately 25% of the entire parcel, would necessitate that a driveway be designed and constructed with access to Route 32, which is impractical and extremely costly. A residential use suits the property better.
  - c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:  
The surrounding neighborhood is residential and the adjoining commercial uses are adequately screened from the property

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

It is a single parcel that happens to be bifurcated by a zoning line  
\_\_\_\_\_  
\_\_\_\_\_

6. IF AN AREA VARIANCE IS REQUESTED:

a) THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE:

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

b) THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE:

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

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

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

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

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

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

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



7. ADDITIONAL REASONS (IF PERTINENT):

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

\_\_\_\_\_  
PETITIONER(S) SIGNATURE *[Handwritten Signature]*

STATE OF NEW YORK: COUNTY OR ORANGE: *DUTCHESS*

SWORN TO THIS 3 DAY OF JANUARY 20 12

\_\_\_\_\_  
*[Handwritten Signature]*  
NOTARY PUBLIC

*[Faint Notary Seal]*  
2014

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.

**FROM:** Marc N. Fecteau, CPA  
**TO:** John Page, Jr.  
**RE:** Orange County investment  
**DATE:** January 4, 2012



Your representative told us that commercial office space of 1,500 square feet in the area of Orange County could possibly achieve rent in the neighborhood of \$12-\$14 per square foot. At \$14, the monthly rent would be \$1,750, or \$21,000 per year.

Your engineer has estimated that the cost to develop the space would be upwards of \$750,000, which includes design, permitting and construction costs. Once again, we have not verified this information and make no claim as to its accuracy.

Without considering inflation, taxes, or interest, it would take over 35 years to recover your costs at the rental rate stated above. Based upon this, your engineer has determined that there is no economic benefit to developing this property for commercial use. We have no basis to disagree.

**TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS**

PROXY

John Page, Jr., DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 1456 Route 55, LaGrangeville, NY 12540

IN THE COUNTY OF Dutchess AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF 75-1-36.2

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED Hudson Land Design, PC  
(Daniel Koehler, Jon Bodendorf, Michael Bodendorf)

TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 1/3/12

[Signature]  
OWNER'S SIGNATURE

[Signature]

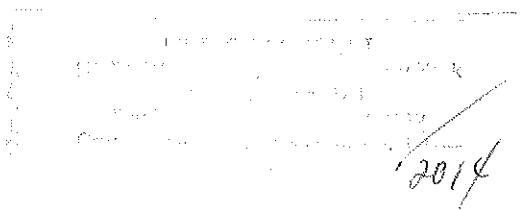
WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ~~ORANGE~~: DUTCHESS

SWORN TO THIS 3 DAY OF JANUARY 2012

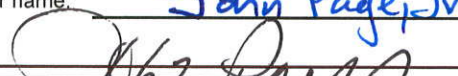
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NOTARY PUBLIC



**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 JPJR Holdings, LLC (John Page, Jr.)	2. PROJECT NAME Rockwood Drive Subdivision
3. PROJECT LOCATION: Municipality T/O Newburgh County Dutchess <span style="float:right; color:blue; font-size:1.2em;">S/B ORANGE</span>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) Rockwood Drive, Chestnut Lane, Route 32 (see map)	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Applicant is proposing an 11-lot residential subdivision. A portion of the property is in the B zoning district; therefore, a use variance is being sought from the Town Zoning Board of Appeals.	
7. AMOUNT OF LAND AFFECTED: Initially <u>~2.25</u> acres      Ultimately <u>~2.25</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If No, describe briefly <p align="center">A residential use is proposed in the B zoning district which requires a use variance</p>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: The subject property is currently vacant and is surrounded by residential developments and commercial developments.	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals: <p align="center">Subdivision approval from the Town Planning Board</p>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>John Page, Jr.</u> Date: <u>12/21/11</u> Signature: 	

**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 - design plans prepared to minimize the potential for any impacts

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:  
No - proposed development is appropriate use of the property given its surroundings

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:  
No threatened/endangered species known to exist on site

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 - negligible impact

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

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:  
Nothing apparent

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

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)

**Reset**





1. View looking east at property from North Plank Road (Rte 32) near Hy Vue Drive.



2. View looking northeast at property from North Plank Road (Rte 32) near exit drive from Ethan Allen.





3. View looking northwest at property from intersection of Chestnut Lane and Rockwood Drive.



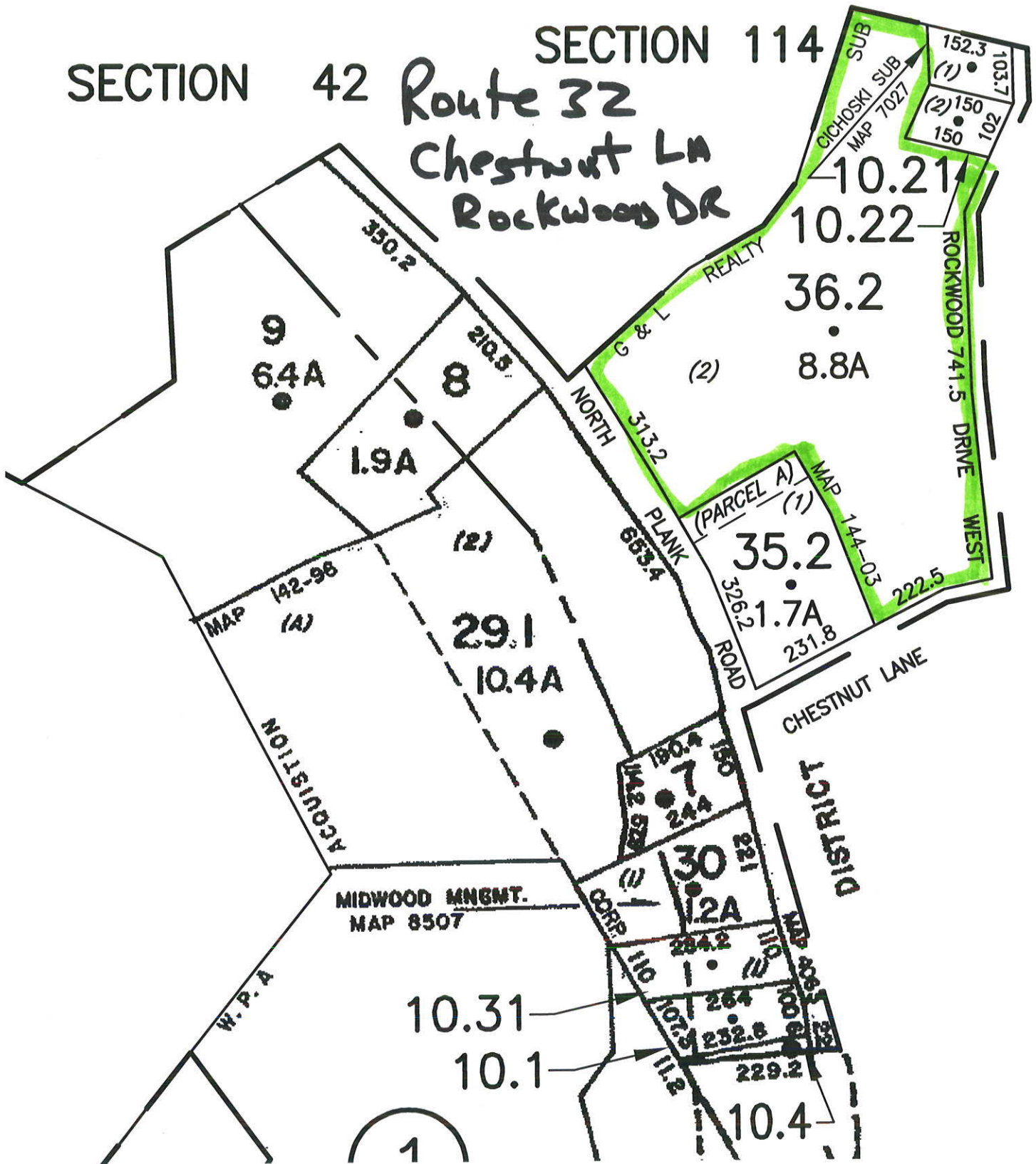
4. View looking west at property from Rockwood Drive from northeast corner of property.



John Page (SPSR Holding)  
75-1-36.2

SECTION 42 SECTION 114  
Route 32

Chestnut LA  
Rockwood DR



S

ZBA MEETING – NOVEMBER 22, 2011



END OF MEETING

(Time Noted – 7:37 PM)

Chairperson Cardone: O.K. everyone had a chance to read the minutes from last month? You've had a chance to look at them. Do we have any additions or deletions?

Mr. McKelvey: I'll make a motion we approve the minutes from last month's meeting.

Ms. Drake: Second that.

Chairperson Cardone: All those in favor say Aye?

Aye - All

Chairperson Cardone: Opposed?

No response.

Chairperson Cardone: Do we have any other business to bring before the Board? Yes Mr. Canfield?

Ms. Gennarelli: That (mic) might be off Jerry just make sure its back on.

Mr. Canfield: O.K. I'll try to keep it short. This is more or less for a...Dave. If an application a...that's been before the Planning Board, it's an eleven lot subdivision, the property is located on Chestnut Lane, a in the rear of...

Mr. Hughes: Ethan Allen?

Mr. Canfield: Ethan Allen, thank you Ron. There is one lot, the zone...the boundary zone splits this parcel, the rear of it is an R-3 the one lot on North Plank Road is a B. Originally the applicant had come to the Planning Board with an eleven lot subdivision and one commercial lot. The commercial lot they showed access through the residential to get to the commercial a...because of the topographics on the North Plank Road side and the lot itself, its heavily rock and the grade is extremely steep so you cannot gain access off North Plank Road. The Planning Board didn't like that at all as far as going through residential to get to commercial. The applicant has since decided that...scrap the commercial portion of it and then petition the Zoning Board to make another residential lot out of it, which they would come before this Board for a Use variance. Now my question is; Mike Donnelly has given an opinion to the Planning Board that a Use variance in this scenario, the Planning Board cannot refer to the Zoning Board that the applicant must come to the Building Department for a letter or Disapproval. My question

is; can I refer this application by letter to the Zoning Board? Can the Zoning Board hear this application just on a letter? Or do we need to go through the full a...Disapproval process where is building plans and...and plot plan is submitted and then I Disapprove a Building Permit Application and that's the avenue that gets them here?

Ms. Drake: Why couldn't they...?

Mr. McKelvey: They could switch it to the Residential zone.

Mr. Hughes: Annex it to the Residential area.

Mr. Donovan: That's probably easier for them even though it might take longer but the...not the...I'm going to answer your question indirectly which is to say if they knew that was Commercially zoned when they bought the property then that's a self-created hardship and its unlikely in the extreme that this Board or could even grant a Use variance.

Mr. Hughes: Hasn't that been in the same ownership for eternity?

Mr. Canfield: I think that's been one parcel forever.

Mr. Hughes: That's the old sand pits that you're talking about.

Mr. Canfield: Yes.

Mr. Donovan: Well, I mean, if it's been in the same ownership since before the Zoning was in place well that's different and then it's not a self-created hardship.

Mr. Hughes: It might be that long. Is that a Gus special?

Mr. Canfield: No it's across...

Mr. Maher: No it's John...

Mr. Canfield: ...the street.

Mr. Maher: John Page.

Mr. Hughes: The lumber guy?

Mr. Maher: It's a...I'm not...it may be the family part John Page Jr.

Mr. Canfield: Well I think that there was an application at one time to make that a Storage Stop...

Mr. Maher: Storage facilities right.



Mr. Canfield: ...and there was too much a...

Mr. Maher: Public outcry.

Mr. Canfield: Public outcry from Chestnut Lane and that area and that application withdrew.

Mr. Hughes: How long has Mr. Page had this thing under his belt?

Mr. Canfield: I'm not sure of the owner's now though. I'm not sure if it's John Page.

Mr. Donovan: What do we do with the a...

Mr. Maher: Yeah, he's actually...sorry Dave, he is JPJr. Holdings. He is the applicant.

Mr. Canfield: Yeah, there's...there's...

Mr. Maher: He is the applicant.

Mr. Canfield: ...that's him, O.K.

Mr. Maher: Yeah.

Mr. Canfield: Same guy then.

Mr. Hughes: But since when did he have ownership of the property?

Mr. Maher: It doesn't state here. It just states he's the a...

Mr. McKelvey: The logical thing is why don't they just switch it into the Residential zone?

Mr. Hughes: Jerry...

Mr. Canfield: I don't know. I'm simply asking the Board...

Mr. Donovan: Well you're asking a procedural question. Now what we do with the folks that were represented by the real estate broker from Washingtonville? Was that by letter? Remember he came here for two lots he wanted to convert from commercial to residential...

Mr. Canfield: Up on 9W.

Mr. Donovan: ...and he ended up basically going away because this Board indicated to him he probably wouldn't get the relief he asked for and he was better off pursuing a zone change.

Mr. McKelvey: That's right.

Ms. Gennarelli: He came from the Building Department I think by Disapproval, if I remember right. Yes, it was Disapproval from the Building Department.

Mr. Canfield: Yeah.

Mr. Hughes: And he's got them up for sale for commercial lots now.

Mr. Canfield: He did get a Disapproval, the big question with that one a...Dave was, he didn't have building drawings and would the Board listen to the application without house plans so to speak. He did have the engineering though he had a site plan or a plot plan with a building envelop a foundation, a septic...

Mr. Donovan: is there Town water and sewer there? If you know...at this spot otherwise I think...

Mr. Canfield: There is Town water; I don't believe there's sewer.

Mr. Hughes: There's no sewer.

Mr. Donovan: I think we would need some sort of schematic indicating you know that a septic system could go there. I don't know if we need to have it designed or engineered but that there's sufficient room for it, there's a place to put it. I think you need to have something.

Mr. Canfield: Oh, definitely. But I think that is after the fact, I think the procedural question though is...

Mr. Donovan: No, I think they should have something before they come here.

Mr. Canfield: Oh, definitely but can I write a verb...excuse me, a letter of referral to this Board?

Mr. Donovan: I think that you can but I...excuse me but...

Mr. Canfield: See, I can't find that in our Municipal Code. So I guess it's a Town Law procedure. I don't know.

Mr. Donovan: Well it's a bit of a common sense procedure. All right, because do you make them submit house plans? You know, I think that if they request a...or they submit...a...you know, I have to talk to Mike because I'm really not sure why he can't

refer it to us. It's a lot easier to do that. I guess probably because the provision of the NYS Town Law 277. (6) talks about a referral of an Area variance not a Use variance maybe he's inferring...

Mr. Canfield: I believe he did cite Town Law. A...I can fax you over...

Mr. Donovan: Well I guess if they came in and submitted a Building Permit Application there's a host of reasons why you wouldn't grant it.

Mr. Canfield: Well if they...if they come in with a Building Permit Application then that's a no brainer. I do the Disapproval and I send it here.

Mr. Donovan: But do they...does this property have access any place?

Mr. Canfield: Not through North Plank Road only through...through the residential zone to get to it.

Chairperson Cardone: Through Rockwood?

Mr. Canfield: Yes, yes.

Mr. Hughes: So now Jerry would that residential building lot be out close to Rockwood or in the back?

Mr. Canfield: The lot that's in question Ron would actually be on North Plank Road.

Mr. Maher: For Residential?

Mr. Hughes: For Residential?

Mr. Canfield: It's...its zoned B but that's the point they are trying to make it Residential.

Mr. Maher: No but I guess the question is the residential...the lot would be on North Plank or on Rockwood?

Mr. Canfield: The lot that's in question would be...the frontage would be on North Plank Road.

Mr. Manley: Oh, my God.

Mr. Hughes: And it would be a residence.

Mr. Canfield: And they're petitioning a Use variance to make it a Residential.

Mr. Hughes: Who the hell would want to have a house there?

Mr. Manley: So you'd be...you'd be to the other side of Ethan Allen? You'd be on the one side of Ethan Allen.

Mr. Hughes: Yeah.

Mr. Canfield: That's correct, the west side of Ethan Allen.

Mr. Manley: But doesn't that go down into a gulley like that?

Mr. Hughes: Oh it does.

Mr. Canfield: Yes, yes.

Mr. Hughes: And it's an awful gulley and there's a rock that's 30-feet high.

Mr. Manley: And the house would sit in the gulley?

Mr. Canfield: If they could display they could fit the house, the septic and the water all in there and that's reasonable information like David said that we would definitely need to see.

Mr. Manley: Holy cow.

Mr. Hughes: I don't know that there's enough dirt.

Chairperson Cardone: But it seems to me it doesn't make sense for them to come to this Board because we probably couldn't even grant it.

Mr. Donovan: Well let me do this Jerry, let me take a look at it, I mean, because people get to do stupid things. It's a free country. So if they...if they weigh their options and say oh, we're still going to go to the ZBA and our brains beat in, they get to do that.

Mr. Canfield: Right.

Mr. Donovan: But the question is can they come here on a letter referral, basically?

Mr. Canfield: That's the sole question at this time.

Mr. Donovan: Let me look into it and I'll get back to you.

Mr. Manley: That also opens up Pandora's Box for you because then you might have a flurry of people come to you and say, hey, I want to get referred to the ZBA can you do it by letter?

Mr. Canfield: I can't and that's why...that's what brings the question to my mind because I don't ever remember and I've been doing this Town here for fifteen, sixteen years and I don't ever remember referring anyone by letter to the ZBA.

Chairperson Cardone: No.

Ms. Drake: If they need documentation to come to us to even look at it then make them do the documentation to go to you to refer it by a Disapproval. You still need to have...we still will want documentation to show that the septic system could reach, fit in there if they got to do it for us make them do it for you first. We're not going to look at it without all that stuff anyway.

Mr. Hughes: Jerry, are you confident that the applicant is aware that that's just one big hunk of rock there?

Mr. Canfield: Yes.

Mr. Hughes: There's no soil or anything it's...

Mr. Canfield: But I think the way they would chop it up or have proposed to subdivide it, I shouldn't say chop up, but subdivide it. I think they have ambitions of proposing ample enough room to fit your well, septic, meet your zoning requirement, your buildable area because now again with the new Law, the buildable area you exclude steep slopes and what not. So there's a percentage of this lot that will be taken right away...

Mr. Hughes: Yeah.

Mr. Canfield: ...O.K.? But I think their...their design professional who is Land Design Corp. feel competent that they can display that.

Mr. Maher: But that's only if in fact they decide to use that hole as a lot that may be the access point to get to the lot too. That may be the driveway.

Mr. Canfield: Take that away...correct.

Mr. Maher: I mean looking the way the lot is set the piece that seems most feasible is the one behind the two houses on Rockwood, existing. If in fact they use this access point on North Plank that would give them the room that they needed but wouldn't they just cut off the Rockwood road side, the Rockwood side with a 50-foot right of way to the lot behind it. It could make sense that way, I mean, in my opinion anyway. But you do also have a...Central Hudson going through there too.

Mr. Canfield: The easement.

Mr. Maher: Because the wires are there.



Mr. Canfield: Right. If you could Mike or Dave, I'm sorry, research and perhaps...

Mr. Donovan: What's the name of the application? I want to see the map too.

Ms. Gennarelli: Dave, in what I gave you tonight...

Chairperson Cardone: It's in the package.

Mr. Maher: It's in there.

Ms. Gennarelli: ...it's in that little package I gave you tonight.

Mr. Donovan: O.K.

Mr. Canfield: You put that in there?

Ms. Drake: Yes.

Ms. Gennarelli: Section, block and lot.

Mr. Maher: JPJr. Holdings.

Mr. Canfield: Right, O.K.

Mr. McKelvey: Yeah, we have it.

Audience Member Inaudible

Ms. Gennarelli: The Building Department is open tomorrow. You have to speak to Joe Mattina with whatever information that you needed to get your Building Permit Application. He needs time to review it. He'll know tomorrow.

Mr. Canfield: O.K. not to be long winded or keep you.

Chairperson Cardone: O.K. anything else?

Ms. Drake: Betty, I don't mind getting the minutes e-mailed to me and reading them online.

Ms. Gennarelli: O.K. good.

Mr. Maher: Yeah, that's fine.

Ms. Drake: Instead of printing them out.

Ms. Gennarelli: You'd like them too? O.K. good.

Ms. Drake: Let's go green.

Ms. Gennarelli: O.K. not everybody likes them like that.

Ms. Drake: Yeah I know.

Mr. Manley: Let's go green.

Chairperson Cardone: I'd like them printed out.

Ms. Gennarelli: Yes, I know and so does John.

Mr. McKelvey: Yeah, I like them printed out.

Ms. Gennarelli: And what about you?

Mr. Manley: Green.

Ms. Gennarelli: Green.

Mr. Manley: Green is good.

Ms. Gennarelli: E-mail, all right, cool.

Ms. Drake: Now that I'm using an e-mail system I have access to them more often.

Ms. Gennarelli: Ron, we'll send yours by pony express.

Mr. Hughes: Yeah. Smoke signals.

Mr. Manley: Smoke signals.

Ms. Gennarelli: We have to close the meeting. One second.

Chairperson Cardone: Do we have a motion to close the meeting?

Mr. McKelvey: So moved.

Mr. Manley: Second.

Chairperson Cardone: All in favor say Aye?

Aye All

Chairperson Cardone: Opposed?

No response.

Chairperson Cardone: The motion is carried. The meeting is adjourned.

Ms. Gennarelli: Happy Thanksgiving everyone.

All: Happy Thanksgiving.

PRESENT ARE:

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

ABSENT:

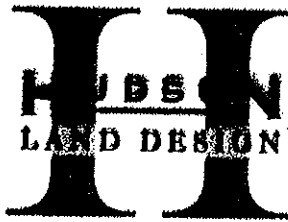
RUTH EATON

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:55 PM)

AS 12/8/11



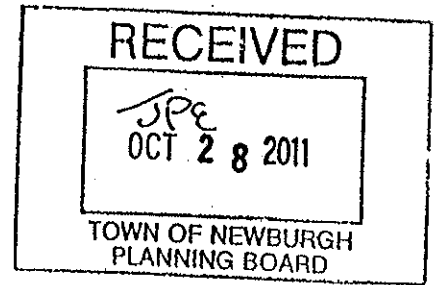
Civil & Environmental Engineering Consultants  
174 Main Street, Beacon, New York 12508  
Phone: 845-440-6926 Fax: 845-440-6637  
www.HudsonLandDesign.com

COPY

October 28, 2011

FILE COPY

Chairman Ewasutyn & Planning Board Members  
Town of Newburgh Planning Board  
308 Gardnertown Road  
Newburgh, NY 12550



Re: Rockwood Drive subdivision (Town Project #2011-19)  
Tax ID: 75-1-36.2

BOARD BUSINESS

3-NOV-2011

Dear Chairman Ewasutyn & Planning Board Members:

Hudson Land Design (HLD) has received the preliminary comments from the Town's consultants regarding the above referenced project, and has discussed the concerns over the layout for the commercial portion of the property with the Applicant. Based on the concerns, the Applicant would like to pursue a use variance from the Zoning Board of Appeals (ZBA) so that the lot within the commercial zone can be used for a single-family home. The attached revised subdivision plat depicts the newly proposed layout showing a proposed single family home within the commercial portion of the property.

We respectfully request to be placed on your November 3, 2011 agenda to consider that a referral to the ZBA be issued. 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".

Jon D. Bodendorf, P.E.  
Principal

cc: John Page, Jr. (JPJR Holdings)  
Daniel G. Koehler, P.E. (HLD File)







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

J & P Page Ventures, LLC  
 TO  
 JPJR Holdings, LLC

SECTION 42 BLOCK 5 LOT 19

RECORD AND RETURN TO:  
 (Name and Address)

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

Rider, Weiner, Frankel & Calhelha PC  
 655 Little Britain Road  
 New Windsor, NY 12553

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

CITIES

- \_\_\_ 0900 MIDDLETOWN  
 \_\_\_ 1100 NEWBURGH  
 \_\_\_ 1300 PORT JERVIS  
 \_\_\_ 9999 HOLD

NO. PAGES 4 CROSS REF \_\_\_\_\_  
 CERT. COPY \_\_\_\_\_ ADD'L X-REF \_\_\_\_\_

MAP # \_\_\_\_\_ PGS. \_\_\_\_\_

PAYMENT TYPE: CHECK   
 CASH \_\_\_\_\_  
 CHARGE \_\_\_\_\_  
 NO FEE \_\_\_\_\_

CONSIDERATION \$ \_\_\_\_\_  
 TAX EXEMPT \_\_\_\_\_

MORTGAGE AMT \$ \_\_\_\_\_  
 DATE \_\_\_\_\_

MORTGAGE TAX TYPE:

- \_\_\_ (A) COMMERCIAL/FULL 1%  
 \_\_\_ (B) 1 OR 2 FAMILY  
 \_\_\_ (C) UNDER \$10,000  
 \_\_\_ (E) EXEMPT  
 \_\_\_ (F) 3 TO 8 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: Feldman

RECORDED/FILED  
 07/18/2005 / 14:56:11  
 DONNA L. BENSON  
 County Clerk  
 ORANGE COUNTY, NY

FILE # 20050077985  
 DEED C / BK 11896 PG 1626  
 RECORDING FEES 207.00  
 TTX# 013196 T TAX 0.00  
 Receipt#448846 pete

STATE OF NEW YORK (COUNTY OF ORANGE) SS:  
 I, DONNA L. BENSON, 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 7-18-05 AND THE SAME IS A CORRECT  
 TRANSCRIPT THEREOF. IN WITNESS WHEREOF, I HAVE  
 HENEDT TO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

*Donna L. Benson* 12-22-11

COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,  
 ORANGE COUNTY



THIS INDENTURE, made the <sup>20</sup> day of June, 2005.

**BETWEEN**

J&P Page Ventures, LLC with an address at 1456 Route 55, LaGrangeville, New York 12540,

party of the first part, and

JPJR Holdings, LLC, with an address at 1456 Route 55, LaGrangeville, New York 12540,

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of the sum of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange, and State of New York, which property is more fully described in Schedule "A," annexed hereto and made a 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, the heirs or successors and assigns of the party of the second part forever.

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

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed as of the day and year first above written.

J&P Page Ventures, LLC

  
By: John Page, Jr., Member

  
By: Patrick Page, Member

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

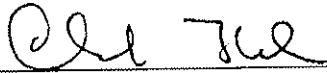
On the <sup>1<sup>st</sup></sup> 20<sup>th</sup> day of June, 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared John Page, Jr., personally known to be or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**LYNNANN W. CYBULSKI**  
Notary Public, State of New York  
Qualified in Orange County  
No. 4975652  
Commission Expires December 28, 2006

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

On the 20<sup>th</sup> day of June, 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared Patrick Page, personally known to be or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**CHARLES E. FRANKEL**  
Notary Public, State of New York  
Qualified in Orange County  
My Commission Expires March 30, 2007

SCHEDULE "A"

SECTION 42 BLOCK 5 LOT 19

ALL THAT piece or parcel of land situate, lying and being in the Town of Newburgh, County of Orange, State of New York, being bounded and described as follows:

BEGINNING at a point formed by the intersection of the northeasterly line of the existing New York State Route 32 (A.K.A. North Plank Road) and the southeasterly line of the existing HyVue Drive; thence, along the southeasterly and easterly line of HyVue Drive the following two (2) courses, (1) N 27 degrees – 32' – 00" E 153.54 feet and (2) N 9 degrees – 07' – 00" E 89.30 feet to a point on the division line between the lands now or formerly of Barclay Manor Associates on the northeast and the parcel herein described on the southwest; thence, along the last mentioned line, S 45 degrees – 35' – 40" E 283.30 feet to a point on the division line between the lands now or formerly of Bell on the southeast and the parcel herein described on the northwest; thence, along the last mentioned division line, S 59 degrees – 58' – 00" W 245.00 feet to a point on the aforementioned northeasterly line of New York State Route 32; thence, along the last mentioned division line, N 33 degrees – 38' – 00" W 78.12 feet to the point of place of beginning, containing 0.77 acres of land more or less.

Subject to an easement ... See Liber 2129 Page 937.

Subject to restrictions ... See Liber 2129 Page 937.

Subject to rights and agreements ... See Liber 2129 Page 937.

BEING the same premises described in a deed from Leonard Bell and Gladys F. Bell to G & L Realty Co., by deed dated April 18, 1994 and recorded in the Orange County Clerk's Office in Liber 4048 at Page 19, on May 23, 1994.