

Edward A. Nims
County Executive

Orange County Department of Planning

Submittal Form for Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-1,m, & n

Referral ID#:
(County and City)

This form is to be completed by the local board having jurisdiction. Submittals from applicants will not be accepted unless coordinated with both the local board having jurisdiction and the County Department of Planning.

Please include all materials that are part of a "full statement" as defined by NYS GML §239-m (i.e. "all materials required by and submitted to the referring body as an application on a proposed action").

Municipality:

Town of Newburgh

Local Referring Board:

Zoning Board of Appeals

Applicant:

MARTIN MILANO

Project Name:

HAMPTON INN + ROUTE 300

Location of Project Site:

1292 ROUTE 300

Tax Map #:

97-2-30.1

Tax Map #:

97-2-30.22

Tax Map #:

97-2-33

Local File No.:

Size of Parcel:

5.1/3.2/?

If more than one parcel, please include sum of all parcels.

Reason for County Review:

Current Zoning District (include any overlays):

IB

Type of Review:

Comprehensive Plan Update/Adoption

Zoning Amendment

Zoning District Change from _____ to _____

Ordinance Modification (cite section): _____

Local Law

Site Plan

Sq. feet proposed (non-residential only): _____

Which approval is the applicant currently seeking?

SKETCH / PRELIM / FINAL (circle one)

Subdivision

Number of lots proposed: _____

Which approval is the applicant currently seeking?

SKETCH / PRELIM / FINAL (circle one)

Special Use Permit

Lot Line Change

Variance

AREA (USE (circle one) 185-27 C-1 & 185-27 D-3(b)

Other

TO ALLOW PROPOSED SUBDIVISION

Is this an update to a previously submitted referral? YES / NO (circle one)

Local board comments or elaboration:

Grace Cardone

10/15/13

Chairperson,
Zoning Board of Appeals

Signature of local official

Date

Title

Municipal Contact Phone Number: 845 566-4901

If you would like the applicant to be cc'd on this letter, please provide the applicant's address:

Please return, along with full statement, to: Orange County Dept. of Planning 124 Main St. Goshen, NY 10924
Question or comments, call: 845-615-3840 or email: planning@orangecountyny.gov

USE

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) 566-4901

DATED: October 10, 2013

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

I (WE) Martin Milano PRESENTLY

RESIDING AT NUMBER 6 Rivers Edge, Newburgh, NY 12550

TELEPHONE NUMBER (845) 567-9100

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

- X A USE VARIANCE
- AN AREA VARIANCE
- INTERPRETATION OF THE ORDINANCE
- SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:
Section 97; Block 2;
Lots 30.1, 30.22, 33 (TAX MAP DESIGNATION)
1292 Route 300
Newburgh, NY 12550 (STREET ADDRESS)
1B (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).
Use Variance : Section 185-27 (c) (1)
Use Variance : Section 185-27

#11 Column "A" - Accessory Uses: Restaurants - required 60' setback. Applicant's existing restaurant has a 47.1' rear setback. This requires a variance.

#12 Column "D" - Uses subject to Site Plan Approval 2
Hotels require 60' rear setback. Applicant's
existing hotel has a 49.5' rear setback. This
requires a variance.

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: Sept. 9, 2013
correspondence from Planning Board Counsel
Michael H. Donnelly, Esq.

4. DESCRIPTION OF VARIANCE SOUGHT: _____

See Attached Memorandum

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:
See Attached Memorandum

**(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: See Attached Memorandum

c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL
CHARACTER OF THE NEIGHBORHOOD BECAUSE:
See Attached Memorandum

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

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 Memorandum

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 Memorandum

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:
See Attached Memorandum

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 Memorandum

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:
See Attached Memorandum

7. ADDITIONAL REASONS (IF PERTINENT):

See Attached

Martin Milano
PETITIONER (S) SIGNATURE
MARTIN MILANO

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 10th DAY OF October 2013

Mary E. Bozydaj
NOTARY PUBLIC

MARY E. BOZYDAJ
Notary Public-State of New York
Qualified in Ulster County
My Commission Expires 1/31/2014

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.

TOWN OF NEWBURGH
ZONING BOARD OF APPEALS

PROXY

Martin Milano, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 6 Rivers Edge Newburgh, NY 12550

IN THE COUNTY OF _____ AND STATE OF _____

AND THAT HE/SHE IS THE OWNER IN FEE OF _____

TAX LOTS 97-2-30.1; 97-2-30.22; 97-2-33

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED Catania, Mahon, Milligram

& Rider, PLLC
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: October 10, 2013 Mart M l

Martin Milano

OWNER'S SIGNATURE
MARTIN MILANO

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 10th DAY OF October 2013

Mary E. Bozydaj

NOTARY PUBLIC

MARY E. BOZYDAJ
Notary Public-State of New York
Qualified in Ulster County
My Commission Expires 1/31/2014

**ADDENDUM TO APPLICATION OF MARTIN MILANO
FOR AREA AND USE VARIANCES**

I

NARRATIVE SUMMARY

On or about August 21, 2013, Martin Milano (the "Applicant") applied to the Town of Newburgh Planning Board for approval to revise the existing lot lines with respect to Tax Lots 97-2-30.1, 30.22 and 33. These contiguous lots are located adjacent to New York State Route 300. Lot 30.1 contains the currently vacant Gateway Diner and the Hampton Inn hotel. The application to the Planning Board specifically proposed to dissolve the existing lot line between Lots 97-2-33 and 97-2-30.1, and to revise the lot line between 97-2-30.1 and 97-2-30.22. The resulting lot line revisions would create two (2) lots. Proposed Lot #1 (+/- 1.93 acres) would contain the existing diner, and proposed Lot 2 (+/-6.66 acres) would contain the existing hotel.

This +/- 8.6 acre site is located within the IB (Interchange Business) Zoning District. The Hampton Inn hotel and the restaurant (the "diner") were constructed during the early 1990's, and those structures comply with all then-existing, and current zoning rules and regulations, and all proper permits for the same have been obtained from the Town of Newburgh.

The proposed project will require variances due to the locations of the existing facilities on the proposed lots and due to current code requirements. This has been confirmed by counsel for the Planning Board, Michael Donnelly, Esq., who drafted a letter dated September 9, 2013, on behalf of the Planning Board, referring the Applicant to the Zoning Board of Appeals to obtain certain required area and use variances. Pursuant to the town code, within the IB zoning district, a 60' rear yard setback is required. The diner on proposed lot #1 is located approximately 47.1' from the rear property line, and the hotel on proposed lot #2 is located approximately 49.5' from the rear property line. The Applicant requests that this Board grant two (2) area variances: one on proposed lot #1 of approximately 12.9', and one on proposed lot #2 of approximately 10.5' such that the property will be within the required rear yard setbacks.

Also, in its referral letter of September 9, 2013, the Planning Board has requested that the Applicant apply for variances from Section 185-27(c)(1) of the Town Code, which requires that a hotel site have its principle frontage on a state or county highway, and from Section 185-27 of the Town Code, to allow the restaurant (diner) as a principle use on a stand-alone lot in the IB Zoning District. The restaurant is currently approved as an accessory use to the Hampton Inn.

Other than the modification of the existing lot lines, the applicant will not be making any physical modifications to the property or existing buildings, and the attached Environmental Assessment Form demonstrates that there will be no physical impact to, or adverse impact on the environment as a result of this request.

To render its decision with respect to the area variances, this board must consider all of the factors required by the New York State Town Law. The law requires that a zoning board of appeals take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (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 variance; (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; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (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 following is respectfully submitted to guide this board's determination of the within application.

II

THE AREA VARIANCES

THE REQUESTED AREA VARIANCES WILL NOT PRODUCE AN UNDESIREABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR BE A DETERMIMENT TO NEARBY PROPERTIES

The instant application will result in no physical changes being made to the structures on the property, and they will remain as they have existed for decades. Inasmuch as no physical changes will result from the lot line modifications, the variances will have no effect on the character of the neighborhood and will have no detrimental effects on neighboring properties.

THE BENEFIT SOUGHT BY THE APPLICANT CANNOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN THE AREA VARIANCE

The application for the rear yard variances cannot be achieved by another feasible means. As stated above, the hotel and restaurant were constructed in the early 1990's. It is not feasible to modify the buildings, as constructed, in order to accommodate the code's rear yard setbacks. Again, no physical alteration of the existing structures is proposed.

THE REQUESTED VARIANCES ARE NOT SUBSTANTIAL

Two area variances are before the board; one for a variance of +/- 12.9' (60' - 47.1'), and one for a variance of +/- 10.5' (60'-49.5'). The 12.9' rear yard modification is the equivalent of

a 21.5% variance from the code. The 10.5' rear yard modification is the equivalent of a 17.5% variance from the code. These are not statistically significant variances. Again, most importantly, the structures will not change and their locations on the lot will not change. They will continue to exist as they have for decades. The only difference is that the proposed lot line modifications will result in a change in what is considered the "rear yard" under the town code, resulting in the need for the variances.

**THE PROPOSED VARIANCE WILL NOT
HAVE AN ADVERSE EFFECT OR IMPACT
ON THE PHYSICAL OR ENVIRONMENTAL
CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT**

Since the proposed lot line changes will not result in any physical change to the existing structures or their current uses, the proposed variances will have no adverse environmental effects, and they will have no impact on the existing neighborhood conditions. The short environmental assessment form attached hereto further confirms that the variances will result in no adverse environmental impacts.

THE ALLEGED DIFFICULTY WAS NOT SELF-CREATED

This board must determine whether the alleged difficulty was self-created. In this case, it can be argued that the hardship is self-created in that it arises out of the request to modify the lot lines for the property. In truth, however, the motivation for the requested variances is to make that portion of the parcel containing the diner more attractive, both aesthetically and economically, to a potential lessee. The use and intensity of the use of the adjacent lot has changed dramatically since the diner and hotel were constructed. In the past several years, the Town Planning Board has approved the development of at least five additional restaurants on the parcel adjoin the diner site, such as Chili's, Longhorn, Panera, Starbuck's and Five Guys. The variances are requested so that an appropriate, economically-qualified tenant can continue the currently approved restaurant use. Stated differently, the variances are required so that the diner structure will not continue to remain vacant. Moreover, as this board is aware, even if it finds that the difficulty was self-created, that factor alone is insufficient to deny the requested variances.

III

THE USE VARIANCES

Two of the variances sought are use variances. To render its decision with respect to the use variances, this board must consider whether the property can realize a reasonable financial return; whether the hardship is unique to the property; whether the variance will alter the character of the neighborhood; and whether the hardship was self-created.

THE PROPERTY CANNOT REALIZE A REASONABLE FINANCIAL RETURN WITHOUT THE NEEDED VARIANCES AND THE HARDSHIP IS UNIQUE TO THE PROPERTY

The application to the Planning Board to vary the lot lines is made based primarily upon economic considerations caused by the current recession, and upon recent build out pursuant to the town's zoning code, that has permitted large scale development on the lots adjacent to the pre-existing Gateway Diner and Hampton Inn hotel. In the past several years, the Town Planning Board has approved the development of the adjoining parcel, which has resulted in the construction of several "national chain restaurants", such as Chili's, Longhorn, Panera, Starbuck's and Five Guys. Over time, this increased intensity of use of the adjoining parcel contributed to the Gateway Diner going out of business, and to the loss of more than fifty (50) local residents becoming unemployed. The facts demonstrate that these recent changes have, at least in part, caused the restaurant to continue become vacant, and an eyesore to the Newburgh community, despite the Applicant's attempts to aggressively market the restaurant (diner) building for a new tenant. Stated differently, the ability to continue the restaurant use as an accessory use to the hotel has diminished greatly.

The Applicant has been hampered in his attempts to lease the premises due to several critical factors. Namely, since the restaurant is located on the same parcel as the hotel, any financing that a new tenant wishes to obtain for the reconstruction, refurbishment or remodeling of the structure must be approved by the hotel's lenders. Due to the tightening of credit requirements, and increased regulation of mortgage financing, the Applicant's attempts to lease the space have been futile. Moreover, the Applicant has been required to pay outstanding water charges attributable to the diner, which, when added to the Applicant's other real property taxes, has resulted in the Applicant paying in excess of \$65,000 in taxes per year on the parcel as a whole. The proposal to segregate the restaurant to its own parcel will alleviate these economic concerns, and will also allow the lot to be taxed separately for tax purposes.

The hardship is unique to this property. Since the hotel and diner were constructed, several stand-alone restaurants have been approved and constructed within the town. These include Denny's, Perkin's Pancake House, the Neptune Diner and Cosimo's restaurant. Whatever the original intent of the town code was, to prohibit stand-alone restaurants, it is clear that the town's practice is now to approve such restaurants, and the same approval should similarly be afforded to this applicant.

THE VARIANCE WILL NOT ALTER THE CHARACTER OF THE NEIGHBORHOOD

The instant application will result in no physical changes being made to the structures on the property, and they will remain as they have existed for decades. Inasmuch as no physical changes will result from the lot line modifications, the variances will have no effect on the character of the neighborhood and will have no detrimental effects on neighboring properties.

THE HARDHSHIP WAS NOT SELF-CREATED

This board must determine whether the alleged difficulty was self-created. In this case, it can be argued that the hardship is self-created in that it arises out of the request to modify the lot lines for the property. In truth, however, the motivation for the requested variances is to make that portion of the parcel containing the diner more attractive, both aesthetically and economically, to a potential lessee. The use of the adjacent lot has changed dramatically since the diner was approved. In the past several years, the Town Planning Board has approved the development of at least five additional restaurants on the parcel adjoin the diner site, such as Chili's, Longhorn, Panera, Starbuck's and Five Guys. The variances are requested so that an appropriate, economically-qualified tenant can continue the currently approved restaurant use. Stated differently, the variances are required so that the diner structure will not continue to remain vacant. Moreover, as this board is aware, even if it finds that the difficulty was self-created, that factor alone is insufficient to deny the requested variances.

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

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

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

Part 1 - Project and Sponsor Information			
Name of Action or Project: Hampton Inn Newburgh			
Project Location (describe, and attach a location map): 1292 Route 300, north of the Route 300/Route 17K intersection (eastern side)			
Brief Description of Proposed Action: The applicant proposes to dissolve the existing lot line between Lots 97-2-33, 97-2-30.1, and revise the lot line between 97-2-30.1 and 97-2-30.22. The resulting lot line revisions will create two lots. Proposed Lot 1 (±1.93 acres) would contain the existing diner and Proposed Lot 2 (±6.66 acres) would contain the existing hotel.			
Name of Applicant or Sponsor: Martin Milano		Telephone: 845-567-9100	
		E-Mail: MM92NY@aol.com	
Address: 1292 Route 300			
City/PO: Newburgh		State: New York	Zip Code: 12550
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Town of Newburgh - Zoning Board of Appeals (Variance Requests) & Planning Board (Lot Line Revision)		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		_____ ±8.5 acres	
b. Total acreage to be physically disturbed?		_____ 0 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ ±8.5 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Mat Malin</u>	Date: <u>10/10/2013</u>	
Signature: _____		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	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)

PRINT

RESET



New York 300, Newburgh, NY 12550

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

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

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Phone (845) 294-9447
mail@ddbblaw.com
Fax (845) 294-6553
(Not for Service of Process)

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

September 9, 2013

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

RE: Hampton Inn
97-2-30.1, 30.22 & 33 (Zone IB)
1262 Route 300 (13.14)

Members of the Board:

I write to you on behalf of and at the direction of the Town of Newburgh Planning Board. The above referenced applicant appeared before the planning board during its meeting of September 5, 2013. The applicant proposes to subdivide two existing parcels of land in a fashion that will merge one of those parcels (a small strip of land located along Route 300) with an existing (although long abandoned) diner site, while subdividing the diner site off from an existing Hampton Inn. For the planning board to approve the proposed subdivision a number of variances will be required. The planning board wishes me to list these variances and to refer to you the applicant's request for consideration of granting same:

1. A rear yard setback variance for Lot #1 (60 feet required, 47.1 feet provided);
2. A rear yard setback variance for Lot #2 (60 feet required, 49.5 feet provided);
3. A variance from the requirement of Section 185-27(C)(1) that a hotel and motel site have its principal frontage on a State or County Highway. The reconfigured subdivision will remove the existing frontage of the hotel / motel with accessory restaurant site;
4. A use variance to allow a restaurant use as a principal use on a lot in the IB Zoning District. By subdividing the diner lot from the motel lot the authorization under Section 185-27 for restaurant uses as accessory to a hotel or motel use is lost.

The planning board has no particular information to bring to your attention regarding this application. The planning board suggests that you conduct your SEQRA review of this application on an uncoordinated review basis.

Very truly yours,



MICHAEL H. DONNELLY

MHD/lrm

cc: Town of Newburgh Planning Board
308 Gardnertown Road
Newburgh, NY 12550

David A. Donovan, Esq.
Dickover, Donnelly, Donovan & Biagi, LLP
P.O. Box 610
Goshen, NY 10924

Andrew B. Fetherston, P.E., CPESC
Maser Consulting, P.A.
1607 Route 300, Suite 101
Newburgh, NY 12550

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE



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

MARTIN MILANO v 92 M.M.
MOTEL, INC.
TO
92 M.M. MOTEL, INC.

SECTION 97 BLOCK 2 LOT 30.1-33

RECORD AND RETURN TO:
(Name and Address)

CHARLES G. FRANKEL, ESQ.
P.O. Box 2280
Newburgh, NY 12550

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 [checked] MORTGAGE [] SATISFACTION [] ASSIGNMENT [] OTHER []

PROPERTY LOCATION

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

CITIES

- 0900 MIDDLETOWN
1100 NEWBURGH
1300 PORT JERVIS

NO. PAGES 4 CROSS REF 2
CERT. COPY [] ADD'L X-REF []
MAP # [] PGS. []

PAYMENT TYPE: CHECK [checked]
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 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: Horizon

LIBER 5344 PAGE 343

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 8-7-00 AND THE SAME IS A CORRECT
TRANSCRIPT THEREOF. IN WITNESS WHEREOF, I HAVE
HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

Donna L. Benson 10-4-13

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

LIBER 5344 PAGE 343

ORANGE COUNTY CLERKS OFFICE 43981 MRL
RECORDED/FILED 08/07/2000 02:48:54 PM
FEES 48.00 EDUCATION FUND 5.00
SERIAL NUMBER: 000246
DEED CNTL NO 60410 RE TAX .00

QUITCLAIM DEED (INDIVIDUAL)

STATUTORY FORM D

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 12th day of July, nineteen hundred and ninety-nine, between MARTIN MILANO, with an address at 475 N. Riverside Road, Highland, New York 12528, and 92 M.M. MOTEL, INC., with an address at 475 N. Riverside Road, Highland, New York 12528, parties of the first part, and 92 M.M. MOTEL, INC., with an address at 475 N. Riverside Road, Highland, New York 12528, party of the second part:

WITNESSETH, that the party of the first part, in consideration of Ten (\$10.00) dollars, lawful money of the United States, and other good and valuable consideration, paid by the party of the second part, does hereby remise, release, and quitclaim unto the party of the second part, his heirs, successors, and assigns forever, all that certain plot, piece, or parcel of land situate, lying and being in the Town of Newburgh, Orange County, New York bounded and described as set forth at Schedule A annexed hereto and made a part hereof,

together with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

The purpose of this deed is to combine the premises described in the following two deeds into a single unified parcel: (a) Deed from the Estate of Mary Palmerone, et al, to Martin Milano, dated May 29, 1997, and recorded in the Orange County Clerk's Office on August 12, 1997 in Liber 4614 of deeds at page 4 and (b) combine the property described in a deed from Martin Milano to 92 M.M. Motel, Inc. dated April 2, 1996 and recorded in the Orange County Clerk's Office on April 18, 1996 in Liber 4371 of deeds at page 240.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, his heirs, successors, and assigns forever.

IN WITNESS WHEREOF, the party of the first part has hereunto set his hand and seal the day and year first above written.

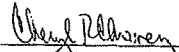

Martin Milano

92 M.M. MOTEL, INC.

By: 
Martin Milano, Pres.

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

On July 12, 1999, before me, the undersigned, a Notary Public in and for said State, personally appeared Martin Milano, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

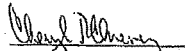


Notary Public

CHERYL R. CHURNEY
Notary Public, State of New York
Qualified in Orange County
Registration #01CH4960202
Commission Expires December 18, 1999

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

On July 12, 1999, before me, the undersigned, a Notary Public in and for said State, personally appeared Martin Milano, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.



Notary Public

CHERYL R. CHURNEY
Notary Public, State of New York
Qualified in Orange County
Registration #01CH4960202
Commission Expires December 18, 1999

SCHEDULE A

All that certain plot, piece, or parcel of land situate, lying and being in the Town of Newburgh, Orange County, New York bounded and described as follows:

BEGINNING at a point in the easterly line of State Highway Route #300, Union Avenue, said Point being in the division line between lands now or formerly Palmerone on the south (Liber 2009, Page 1113) and lands now or formerly 92 M.M. Motel, Inc. on the north and running thence:

THE FOLLOWING COURSES AND DISTANCES ALONG THE EASTERLY LINE OF STATE HIGHWAY ROUTE #300, UNION AVENUE:

1. North 24° 37' 52" East 420.69' to a point, thence
2. North 44° 26' 44" East 11.71' to a point, thence
3. North 21° 30' 40" East 27.19' to a point marked by a concrete monument found in lands now or formerly People of the State of New York, New York State Thruway Authority; thence:

THE FOLLOWING COURSES AND DISTANCES ALONG LANDS NOW OR FORMERLY PEOPLE OF THE STATE OF NEW YORK AS FOLLOWS:

4. South 42° 36' 11" East 15.76' to a concrete monument found, thence
5. South 28° 07' 45" East 171.48' to an iron rod set, thence
6. South 66° 24' 26" East 189.02' to an iron rod set, thence
7. South 88° 30' 12" East 183.15' to an iron rod set, thence
8. North 54° 36' 26" East 159.67' to an iron rod set in the lands now or formerly Milano, thence
9. Along lands now or formerly Milano South 24° 29' 38" West 561.26' to an iron rod set in the lands now or formerly Palmerone, thence
10. Along lands now or formerly Palmerone North 65° 30' 22" West 592.07' to the Beginning Point.

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



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

COM 6637

*Lena Mangicchi, Joseph Palmaroni as Sptks
 Mary Palmaroni, John Mangicchi
 as Justice of Peace, Palmaroni
 Antonio Palmaroni as Mangicchi
 David L. Rider as Exr. of John
 Palmaroni
 Martin Mulau*

SECTION 17 BLOCK 2 LOT 30.1

RECORD AND RETURN TO:
 (Name and Address)

*Anthony M. Bernacco PC
 P.O. Box 1220
 Highland NJ 07528*

THERE IS NO FEE FOR THE RECORDING OF THIS PAGE

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) |
| ___ 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) | ___ 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 MINSINK (TN) | ___ 5801 HARRIMAN (VLG) |
| ___ 3801 UNIONVILLE (VLG) | |
| ___ 4089 MONROE (TN) | |
| ___ 4001 MONROE (VLG) | |
| ___ 4003 HARRIMAN (VLG) | |
| ___ 4005 KIRYAS JOEL (VLG) | |

NO. PAGES 5 CROSS REF _____
 CERT. COPY _____ AFFT. FILED _____

PAYMENT TYPE: CHECK
 CASH _____
 CHARGE _____
 NO FEE _____

CONSIDERATION \$ 100,000.00
 TAX EXEMPT _____

MORTGAGE AMT \$ _____
 DATE 1-30-96

- MORTGAGE TYPE:**
- ___ (A) COMMERCIAL
 - ___ (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.UNI OR 2
 - ___ (K) CONDO

- CITIES**
- ___ 0900 MIDDLETOWN
 - ___ 1100 NEWBURGH
 - ___ 1300 PORT JERVIS

___ 9999 HOLD

Joan A. Macchi

RECEIVED FROM: *Bridge City Abstr*

JOAN A. MACCHI
 Orange County Clerk

URI:4344 PAGE 15

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 2-22-96 AND THE SAME IS A CORRECT
 TRANSCRIPT THEREOF. IN WITNESS WHEREOF, I HAVE
 HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

Donna L. Benson 10-4-13

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

ORANGE COUNTY CLERKS OFFICE 8184 NLV
 RECORDED/FILED 02/22/96 11:43:57 AM

FEE \$ 50.00 EDUCATION FUND 5.00

SERIAL NUMBER: 005101
 DEED CNTL. NO 51639 RE TAX 400.00

TT 400-

com #16637
Budget City Cost

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 30th day of January, nineteen hundred and ninety ~~th~~th

BETWEEN

LENA MARGIOTTI, residing at 285 Ann Street, Newburgh, New York 12550, and JOSEPH PALMERONE, residing at 126 Route 17K, Newburgh, New York as Co-Executors of the Estate of MARY PALMERONE, who died a resident of Orange County on September 6, 1988; LENA MARGIOTTI, residing at 285 Ann Street, Newburgh, New York 12550, as Trustee under the Last Will and Testament of JOSEPH PALMERONE; ANTONIA PALMERONE, with an address at c/o David L. Rider, Esq., 427 Little Britain Road, Newburgh, New York 12550, and LENA MARGIOTTI, residing at 285 Ann Street, Newburgh, New York 12550, and DAVID L. RIDER, with an address at 427 Little Britain Road, Newburgh, New York, as Co-Executors of the Estate of JOHN PALMERONE, who died a resident of Orange County on October 3, 1994; collectively the party of the first part, and

MARTIN MILANO, residing at 475 N. Riverside Road, Highland, New York 12528, the party of the second part,

WITNESSETH, that ANTONIA PALMERONE individually; LENA MARGIOTTI and JOSEPH PALMERONE, as Co-Executors of the Estate of MARY PALMERONE, to whom successor letters testamentary were issued by the Surrogate's Court, Orange County, New York on December 1, 1994, by virtue of the power and authority given in and by the Last Will and Testament of MARY PALMERONE, dated March 18, 1988, and/or by Article 11 of the Estates, Powers and Trusts Law; LENA MARGIOTTI, as successor Testamentary Trustee under the Last Will and Testament of JOSEPH PALMERONE, appointed on December 1, 1994 by the Surrogate's Court, Orange County, New York, by virtue of the power and authority given in and by the Last Will and Testament of JOSEPH PALMERONE, dated April 12, 1978, and/or by Article 11 of the Estates, Powers and Trusts Law; and LENA MARGIOTTI and DAVID L. RIDER, as Co-Executors of the Estate of JOHN PALMERONE, to whom letters testamentary were issued by the Surrogate's Court, Orange County, New York on November 4, 1994, by virtue of the power and authority given in and by the Last Will and Testament of JOHN PALMERONE dated September 25, 1991, and/or by Article 11 of the Estates, Powers and Trusts Law; and in consideration of ONE HUNDRED THOUSAND and 00/100 (\$100,000.00) DOLLARS, paid by the party of the second part; the party of the first part does hereby grant and release unto the party of the second part, the heirs, 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.

NR4344 PAGE 16

Deed: Estate of Mary Palmerone, et al. to Martin Milano
Dated: November 13, 1995
Page Two

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 also all the estate which the said decedent had at the time of decedent's death in said premises, and also the estate therein, which the party of the first part has or has power to convey or dispose of, whether individually, or by virtue of said will or otherwise; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the distributees 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 incumbered in any way whatever, except as aforesaid.

Subject to the trust fund provisions of section thirteen of the Lien Law.
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.

ESTATE OF MARY PALMERONE:

By: Lena Margiotti
Lena Margiotti, Co-Executor

By: Joseph Palmerone
Joseph Palmerone, Co-Executor
A.

ANTONIA PALMERONE
ANTONIA PALMERONE

THE TRUST UNDER THE LAST WILL
AND TESTAMENT OF JOSEPH
PALMERONE

By: Lena Margiotti
Lena Margiotti, Trustee

ESTATE OF JOHN PALMERONE

By: Lena Margiotti
Lena Margiotti, Co-Executor

By: David L. Rider
David L. Rider, Co-Executor

NYR-1344 PAGE 17

SCHEDULE A

ALL that plot, piece or parcel of land, situate, lying and being in the Town of Newburgh, County of Orange and State of New York, more particularly bounded and described as Lot No. 2 on Filed Map No. 205/95, said map was filed in the Orange County Clerk's Office on November 8, 1995.

LIBER 4344 PAGE 20

RIDER, WEINER, FRANKEL & CALHELHA, P.C.
427 LITTLE BRITAIN ROAD • P. O. BOX 2280 • NEWBURGH, N. Y. 12550 • (914) 562-9100

