



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: 9/7/17

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

I ~~(WE)~~ Richard Rinaldo PRESENTLY

RESIDING AT NUMBER 22 Windwood Drive, Newburgh, NY

TELEPHONE NUMBER 300-9301

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

- A USE VARIANCE
- AN AREA VARIANCE(S)
- INTERPRETATION OF THE ORDINANCE
- SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:

90-5-11 (TAX MAP DESIGNATION)

22 Windwood Drive (STREET ADDRESS)

R-1 (ZONING DISTRICT)

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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

185-15-A and the Table of Use and Bulk Requirements. Schedule 3 (R-1 District)



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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: 9/29/17
- 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: (1) Construct a shed on a front yard;
(2) Slight increase of existing non-conformity of the lot building coverage and lot surface coverage because of proposed shed.

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

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

(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)

- b) THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE:
n/a

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



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

n/a

6. IF AN AREA VARIANCE IS REQUESTED:

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

see attached narrative

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 narrative

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

see attached narrative

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 narrative

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

see attached narrative



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OFFICE OF ZONING BOARD
(845) 566-4901

7. ADDITIONAL REASONS (IF PERTINENT):

see attached narrative

PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 7th DAY OF September 20 19

NOTARY PUBLIC

MICHELLE TREBACH
Notary Public, State of New York
No. 01TR4947295
Qualified in Orange County
Commission Expires February 21, 20 19

NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.
(ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE NIGHT OF THE MEETING).

(NOTE: BOARD MEMBERS MAKE SITE VISITS TO ALL THE PROPERTIES)



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

PROXY

Richard Rinaldo, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 22 Windwood Drive, New Bur

IN THE COUNTY OF Orange AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF 22 Windwood Drive,
Newburgh, New York

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED John Funst, Esq. of Catania, Mahon,
Milligram & Rider, PLLC

TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 9/17/19

[Signature]

OWNER'S SIGNATURE

[Signature]

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 17th DAY OF September 20 19

[Signature]

NOTARY PUBLIC

MICHELLE TREBACH
Notary Public, State of New York
No. 01TR4947296
Qualified in Orange County
Commission Expires February 21, 2019

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

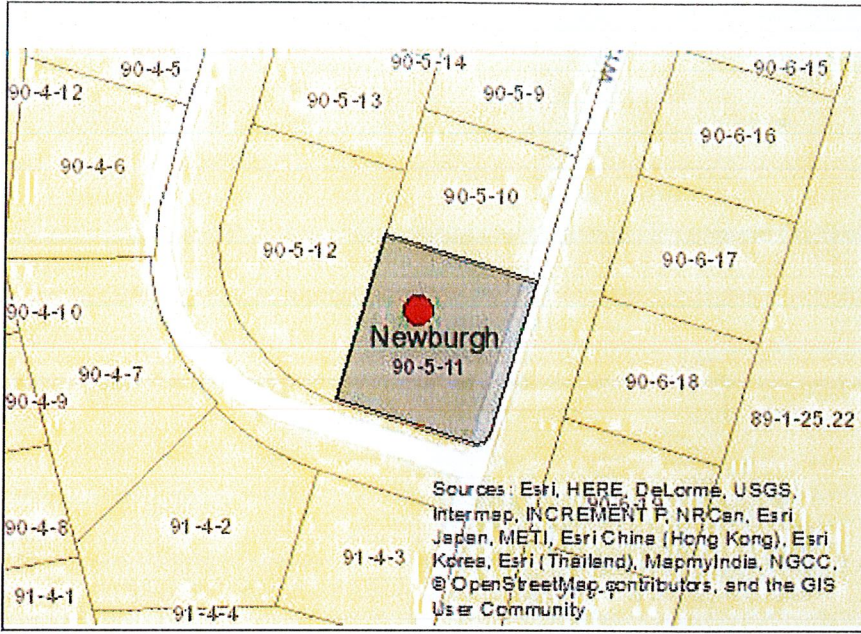
Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. 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.

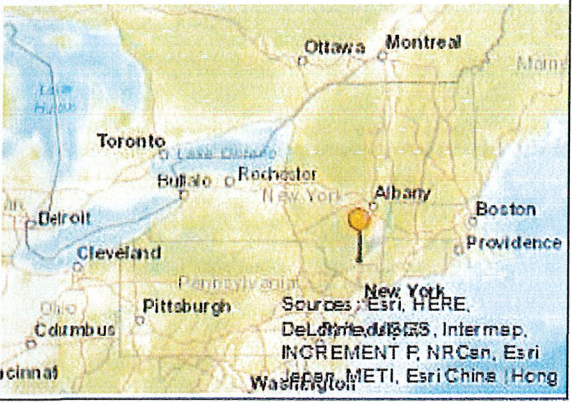
Part 1 - Project and Sponsor Information			
Richard and Lisa Rinaldo			
Name of Action or Project: Rinaldo application for two variances			
Project Location (describe, and attach a location map): 22 Windwood Drive, Newburgh, New York 12550			
Brief Description of Proposed Action: Request for variance(s) to construct a shed on a front yard, to allow increase in existing non-conformities with respect to lot building coverage and lot surface coverage.			
Name of Applicant or Sponsor: Richard and Lisa Rinaldo		Telephone: 845-300-9301	
		E-Mail: ialvdel72@gmail.com	
Address: 22 Windwood Drive			
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 checked="" 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:			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		16,728 sq.ft ;	
b. Total acreage to be physically disturbed?		336 sq.ft. size of proposed shed	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		16,728 sq.ft ;	
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 type="checkbox"/> Commercial <input checked="" 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			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	b. Are public transportation service(s) available at or near the site of the proposed action?		
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?			
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: n/a	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: n/a	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: n/a	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____			
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES			

<p>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)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: <u>Abbey</u> Date: <u>9/7/17</u></p> <p>Signature: <u>[Handwritten Signature]</u></p>		



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



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, OpenStreetMap contributors, and the GIS User Community

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National Register of Historic Places]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

Agency Use Only [If applicable]

Project:

Date:

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

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"/>
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"/>

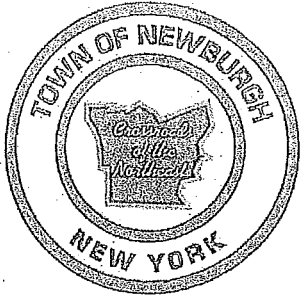
Agency Use Only [If applicable]

Project:	
Date:	

Short Environmental Assessment Form
Part 3 Determination of Significance

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)



TOWN OF NEWBURGH

~Crossroads of the Northeast~

CODE COMPLIANCE DEPARTMENT
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

TELEPHONE 845-564-7801
FAX LINE 845-564-7802

2651-17

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Date: 09/29/2017

Application No. 17-0571

To: Richard Rinaldo
22 Windwood Dr
Newburgh, NY 12550

SBL: 90-5-11
ADDRESS: 22 Windwood Dr

ZONE: R1

PLEASE TAKE NOTICE that your application dated 06/28/2017 for permit to keep a 12' x 28' accessory building in a front yard that was installed without a permit on the premises located at 22 Windwood Dr is returned herewith and disapproved on the following grounds:

Town of Newburgh Municipal Code:

- 1) 185-15-A. A permitted accessory building may be located in any required side or rear yard
- 2) Bulk table schedule 3 Allows a maximum lot building coverage of 10%.
- 3) Bulk table schedule 3 Allows a maximum lot surface coverage of 20%


Joseph Mattina

Cc: Town Clerk & Assessor (500')
File

Town of Newburgh Code Compliance

OWNER INFORMATION

BUILT WITH OUT A PERMIT YES

NAME: Richard Rinaldo Building Application # 17-0571

ADDRESS: 22 Windwood Dr. Newbrgh NY 12550

PROJECT INFORMATION:

AREA VARIANCE USE VARIANCE

TYPE OF STRUCTURE: 12' x 28' Accessory building in a front yard

SBL: 90-5-11 ZONE: R-1 ZBA Application # _____

TOWN WATER: YES / NO TOWN SEWER: YES / NO

	MINIMUM	EXISTING	PROPOSED	VARIANCE	VARIANCE PERCENTAGE
LOT AREA	16728 sf				
LOT WIDTH					
LOT DEPTH					
FRONT YARD					
REAR YARD					
SIDE YARD					
MAX. BUILDING HEIGHT					
BUILDING COVERAGE	10%=1672.8			19%	9.00%
SURFACE COVERAGE	20%=3345.6 sf			25%	5.00%

INCREASING DEGREE OF NON-CONFORMITY - 185-19-C-1 _____ YES / NO
 2 OR MORE FRONT YARDS FOR THIS PROPERTY _____ YES / NO
 CORNER LOT - 185-17-A _____ YES / NO

ACCESSORY STRUCTURE:

GREATER THEN 1000 S.F. OR BY FORMULA - 185-15-A-4 _____ YES / NO
 FRONT YARD - 185-15-A _____ YES / NO
 STORAGE OF MORE THEN 4 VEHICLES _____ YES / NO
 HEIGHT MAX. 15 FEET - 185-15-A-1 _____ YES / NO
 10% MAXIMUM YARD COVERAGE - 185-15-A-3 _____ YES / NO

NOTES:

Corner lot Windwood & Flamingo

VARIANCE(S) REQUIRED:

- 1 185-15-A Accessory building may be located in a side or rear yard.
- 2 Bulk Table schedule 3 Allows a maximum lot building coverage of 10%
- 3 Bulk Table schedule 3 Allows a maximum lot surface coverage of 20%
- 4 _____

REVIEWED BY: Joseph Mattina DATE: 29-Sep-17

CATANIA, MAHON, MILLIGRAM & RIDER, PLLC

ATTORNEYS AND COUNSELLORS AT LAW

JOSEPH A. CATANIA, JR.
RICHARD M. MAHON, II (DC, AZ)
STEVEN I. MILLIGRAM (NJ)
MICHELLE F. RIDER, CPA (FL)
PAUL S. ERNENWEIN
JOSEPH G. MCKAY
MICHAEL E. CATANIA (NJ)
ARI I. BAUER
SEAMUS P. WEIR

RICHARD F. LIBERTH, *RETIRED*

HOBART J. SIMPSON (1975-2016)

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TOLL FREE 1-800-344-5655

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LIA E. FIERRO
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EVE I. LINCOLN

(ALSO ADMITTED IN)

Writer's Direct No.
(845) 569-4377

(ALSO ADMITTED IN)

Writer's E-Mail
jfurst@cmmrlegal.com

October 11, 2017

Via Hand Delivery

Town of Newburgh Zoning Board of Appeals
Newburgh Town Hall
Old Town Hall
308 Gardnertown Road
Newburgh, New York 12550
Attn: Betty Gennarelli, Zoning Board Secretary

RE: Rinaldo-22 Windwood Drive (90-5-11) (the "Property")
Area Variance Application(s)
Our File No.: 14488-64463

Dear Chairman Manley and Members of the Zoning Board of Appeals:

Our office represents Richard and Lisa Rinaldo ("Applicants") who own the subject Property utilized as their single-family residence. Applicants are proposing to add a 336 square foot shed to their Property. The Property is located on the corner of Windwood Drive and Flamingo Drive and is within the Town's R-1 Zone.

The Applicants were referred to the Zoning Board of Appeals ("ZBA") by way of a Notice of Disapproval (dated 9/29/2017) from Joseph Mattina (the "Disapproval Notice"). The Disapproval Notice highlights the need for three variances: (1) the proposed shed is located in one of this corner lot's front yards in violation of Section 185-15-A, (2) an increase in the

October 11, 2017

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existing nonconformity with respect to Lot Building Coverage as noted in the Table of Use and Bulk Requirements for the R-1 Zone because of the proposed shed, and (3) an increase in the existing nonconformity with respect to Lot Surface Coverage as noted in the Table of Use and Bulk Requirements for the R-1 Zone because of the proposed shed. Thus, there is a total of three (3) variance requests.

Application of the Area Variance Criteria under Town Law Section 267-b.3

When making its determination and weighing the benefit to the applicant against the detriment to the health, safety, and welfare of the neighborhood, the ZBA must consider five (5) factors.

- (1) Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created? No

The addition of the proposed 336 square foot shed will not create an undesirable change in the neighborhood. Although technically located in the front yard because it is a corner lot, the proposed shed is behind the main house and on one side of the house; but still setback approximately 25 feet from Flamingo Drive. The proposed shed will be located behind existing six (6) foot fencing in the Applicant's backyard area and screened from portions of Flamingo Drive by existing trees. Thus, its visibility is limited.

Finally, the slight increase in Lot Building Coverage and Lot Surface Coverage due to the proposed 336 square foot shed will not produce an undesirable change in the character of the neighborhood. This is one of the larger tax parcels in the neighborhood so there is ample green space. The variance is a result of the pre-existing non-conformity with the lot size, lot depth and Lot Building/Lot Surface Coverage requirements that were probably enacted after construction of the single-family home. In addition, the Lot Building Coverage and Lot Surface Coverage calculations include the existing pool deck which is not even a building and not an impervious material or surface as there is dirt underneath the deck. Thus, the pre-existing non-conformity and any slight increase created by the proposed shed will not create an undesirable change in the character of the neighborhood, or detriment to nearby property owners.

- (2) Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance? No

Applicant would rather store their belongings within the proposed shed as opposed to outside. The location of both the proposed and existing shed allow the Applicant more private backyard space behind the house. The Applicant's options are limited because it is a corner lot.

- (3) Whether the requested area variance is substantial? No

The Applicant is seeking to place the proposed shed approximately 26 feet closer to

October 11, 2017

Page 3

Flamingo Drive than the main dwelling, but it will still be approximately 25 feet from the road. Technically, this variance may be quantitatively substantial. However, the substantiality of a variance cannot be judged solely by a comparison of the percentage deviation from the mandated requirement. The quantitative deviation cannot be viewed in the abstract because the deviation only becomes relevant if it relates to an adverse effect. Here, the variances will not impact the character of the neighborhood or be a detriment to nearby properties.

Finally, the Lot Building/Lot Surface Coverage increase due to the proposed 336 sq. foot shed is only 2-3%. Thus, any change is inconsequential.

- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? No

The proposed shed will not interfere with traffic or site lines. It is located approximately 25 feet from Flamingo Drive within the existing fenced in area and away from the intersection of Flamingo Drive and Windwood Drives. The proposed shed is located in the rear of the property and to the side of the main dwelling. In addition, the existing shed is located approximately 26 feet from the main house. Thus, there is enough plenty of separation between buildings. As noted above, the visibility of the proposed shed will be limited.

The slight 2-3% increase in Lot Building and Lot Surface Coverage is trivial.

- (5) Whether the alleged difficulty was self-created? No

The variances are a result of the location of this property at the corner of Windwood and Flamingo Drive. In addition, the Lot Building/Lot Surface Coverage variances are due to the pre-existing non-conformity of the lot probably created because of zoning amendments after the home was constructed. Even if the difficulty was self-created it is not fatal to area variance applications because the ZBA is NOT precluded from still granting the area variances. See, Town Law Section 267-b(3)(b)(5).

Conclusion

The balancing of equities weighs profoundly in favor of granting the variances. As shown above, all five (5) factors set forth in Town Law Section 267-b.3 weigh heavily in favor of the Applicants. The minor variances will not cause any detriment to the health, safety and welfare of the residential neighborhood and community.

As per the ZBA instruction package we submit copies of the following:

- (1) Signed ZBA Application Form and Proxy.
- (2) The Disapproval Notice (dated September 29, 2017)
- (3) Completed Short Environmental Assessment Form. However, please note that under the SEQRA regulations the proposed addition of the shed to this single-family

CATANIA, MAHON, MILLIGRAM & RIDER, PLLC

October 11, 2017

Page 4

residence is a Type II Action and no environmental review is necessary because the DEC has already determined that these actions will not present any significant environmental impacts. See, 6 NYCRR Part 617.5(c)(10) and (13).

- (4) Certified Copy of the Deed
- (5) Plot plan dated July 14, 2017 and revised September 26, 2017.
- (6) Four photographs taken of the proposed shed
- (7) List of property owners within 500 feet

In addition, the above referenced documents, we have also enclosed a receipt showing payment of the required application fees.

Very truly yours,



JOHN W. FURST

JWF/1394211.2

Enclosures

Cc Richard and Lisa Rinaldo (via e-mail only)

Pursuant to IRS Regulations, any tax advice contained in this communication or attachments is not intended to be used and cannot be used for purposes of avoiding penalties imposed by the Internal Revenue Code or promoting, marketing or recommending to another person any tax related matter.

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

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

Casey M. Cirillo

TO

Richard A. Rinaldo

SECTION 90 BLOCK 5 LOT 11

RECORD AND RETURN TO:

(name and address)

Michelle Anderson, Esq. Law Office of Saffioti & Anderson 5031 Route 9W Newburgh, NY 12550



STATE OF NEW YORK (COUNTY OF ORANGE) SS: I, ANN G. RABBITT, 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 Oct 8, 2013 AND THE SAME IS A CORRECT TRANSCRIPT THEREOF. IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

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

COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURT: ORANGE COUNTY Aug 31, 2017

INSTRUMENT TYPE: DEED X MORTGAGE SATISFACTION ASSIGNMENT OTHER

PROPERTY LOCATION

- 2089 BLOOMING GROVE (TN) 4289 MONTGOMERY (TN)
2001 WASHINGTONVILLE (VLG) 4201 MAYBROOK (VLG)
2003 SO. BLOOMING GROVE (VLG) 4203 MONTGOMERY (VLG)
2289 CHESTER (TN) 4205 WALDEN (VLG)
2201 CHESTER (VLG) 4489 MOUNT HOPE (TN)
2489 CORNWALL (TN) 4401 OTISVILLE (VLG)
2401 CORNWALL (VLG) X 4600 NEWBURGH (TN)
2600 CRAWFORD (TN) 4800 NEW WINDSOR (TN)
2800 DEERPARK (TN) 5089 TUXEDO (TN)
3089 GOSHEN (TN) 5001 TUXEDO PARK (VLG)
3001 GOSHEN (VLG) 5200 WALLKILL (TN)
3003 FLORIDA (VLG) 5489 WARWICK (TN)
3005 CHESTER (VLG) 5401 FLORIDA (VLG)
3200 GREENVILLE (TN) 5403 GREENWOOD LAKE (VLG)
3489 HAMPTONBURGH (TN) 5405 WARWICK (VLG)
3401 MAYBROOK (VLG) 5600 WAWAYANDA (TN)
3689 HIGHLANDS (TN) 5889 WOODBURY (TN)
3601 HIGHLAND FALLS (VLG) 5801 HARRIMAN (VLG)
3889 MINISINK (TN) 5809 WOODBURY (VLG)
3801 UNIONVILLE (VLG) CITIES
4089 MONROE (TN) 0900 MIDDLETOWN
4001 MONROE (VLG) 1100 NEWBURGH
4003 HARRIMAN (VLG) 1300 PORT JERVIS
4005 KIRYAS JOEL (VLG) 9999 HOLD

NO. PAGES 5 CROSS REF.
CERT. COPY ADD'L X-REF.
MAP# PGS.

PAYMENT TYPE: CHECK X
CASH
CHARGE
NO FEE

Taxable CONSIDERATION \$ 226,000.00
TAX EXEMPT
Taxable MORTGAGE AMT. \$ 271,200.00

MORTGAGE TAX TYPE:
(A) COMMERCIAL/FULL 1%
(B) 1 OR 2 FAMILY
(C) UNDER \$10,000
X (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

Greenacre

RECORDED/FILED
10/08/2013/ 10:33:46
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY
FILE#20130102215
DEED R / BK 13660PG 0699
RECORDING FEES 195.00
TTX# 001448 T TAX 904.00
Receipt#1670082 pete

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10/08/2013/ 10:33:46
County Clerk
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ORANGE COUNTY, NY
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BASIC 0.00
MTA 0.00
SPECIAL 0.00
SPECIAL ASST 0.00
RECORDING FEES 0.00
Receipt#1670082 pete

Bargain and Sale Deed with Covenants Against Grantor's Acts

THIS INDENTURE, made this 27th day of September, 2013

BETWEEN **Casey M. Cirillo** residing at 22 Windwood Drive, Newburgh, New York 12550, party of the first part, and
Richard A. Rinaldo residing at 26 Watkins Drive, Walden, New York 12586, party of the second part,

Witnesseth, that the party of the first part, in consideration of ten (\$10.00) dollars 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 the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange and State of New York, being more particularly bounded and described on Schedule "A" annexed hereto and incorporated herein by this reference.

The premises are improved by a single-family residence only.

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.

BEING AND INTENDED TO BE the same premises conveyed by Gene R. Cirillo and Casey M. Cirillo, to the Grantor herein by deed dated July 23, 2007 and recorded with the Office of the Clerk of Orange County on August 1, 2007 in Liber 12498 cp 499.

DEED RESTRICTION: Grantee herein is prohibited from conveying captioned property for any sales price for a period of 30 days from the date of this deed. After this 30 day period, Grantee is further prohibited from conveying the property for a sales price greater than \$271,200.00 until 90 days from the date of this deed. These restrictions shall run with the land and are not personal to the Grantee.

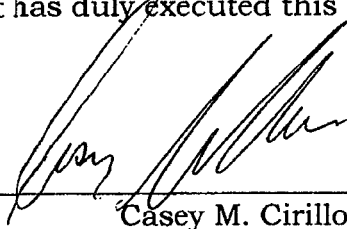
And the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid. And the party of

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 and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

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 the day and year first above written.

IN PRESENCE OF:


Casey M. Cirillo

STATE OF NEW YORK
COUNTY OF ORANGE ss:

On September 27, 2013 before me the undersigned, a Notary Public in and for said State, personally appeared **Casey M. Cirillo**, 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 she executed the same in her capacity and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

TINA M. FASSNACHT
Notary Public, State of New York
Qualified in Orange County
Registration No. 02FA6046769
Commission Expires August 21, 2014

Bargain And Sale Deed With Covenant Against Grantors Acts

Section/Block/Lot: 90-5-11
Street Address: 22 Windwood Drive
Municipality: Town of Newburgh

RETURN BY MAIL TO:
Saffioti & Anderson PC.
5031 Route 9W
Newburgh, New York 12550

Schedule A Description

Revised: 09/12/2013

Title Number GA-131780-O

Policy Number: O-8911-000635272

Page 1

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

BEGINNING at an iron pin found on the westerly side of Windwood Drive, said pin being the southeasterly most corner of Lot 20, the land reputedly of Acoveno and also being South 28 degrees 10 minutes 00 seconds West a distance of 204.96 feet from an iron pipe found;

THENCE from said point or place of beginning the following (2) courses and distances along the westerly side of said Windwood Drive:

- (1) South 28 degrees 10 minutes 00 seconds West a distance of 124.00 feet;
- (2) On a curve to the northwest having a radius of 10.00 feet, an arc length of 15.71 feet, and a chord of South 73 degrees 10 minutes 00 seconds West a distance of 14.14 feet (as per survey) (14.24 feet as per deed);

THENCE along the northerly side of Flamingo Drive, North 61 degrees 50 minutes 00 seconds West a distance of 115.00 feet;

THENCE along Lot 13, the lands reputedly of Mead, North 28 degrees 10 minutes 00 seconds East a distance of 134.00 feet to an iron found, said iron being South 28 degrees 10 minutes 00 seconds West a distance of 105.85 feet from an iron pipe found;

THENCE along said Lot 20, the lands reputedly of Acoveno, South 61 degrees 50 minutes 00 seconds East a distance of 125.00 feet to the point or place of BEGINNING.

255 AFFIDAVIT

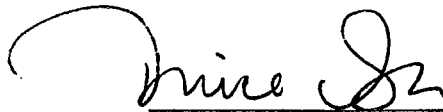
State of New York)

County of Orange)SS:

I, Derrick Saunders, being duly sworn, deposes and says that:

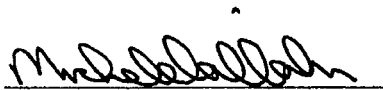
1. I represent the Title Insurance Company for the Grantee of the insured deed, Richard A. Rinaldo
2. The Grantee is the owner of the fee estate of the premises located at 22 Windwood Drive, Newburgh, NY 12550, in the Town of Newburgh identified on the Tax Map as Section 90 Block 5 Lot 11, County of Orange in the State of New York.
3. The Deed transferring title to the Grantee contains the following restrictive language:
 "Grantee herein is prohibited from conveying captioned property for any sales price for a period of 30 days from the date of this deed. After this 30 day period, Grantee is further prohibited from conveying the property for a sales price greater than \$271,200.00 until 90 days from the date of this Deed. These restrictions shall run with the land and are not personal to the Grantee."
4. This is solely a restriction on the sale of this real property and it does not create or secure any new or further principal indebtedness or obligations secured by or which under any contingency may be secured by a mortgage.

WHEREFORE, Deponent and Grantee respectfully request that the deed be accepted for recording without the payment of any additional mortgage recording tax.

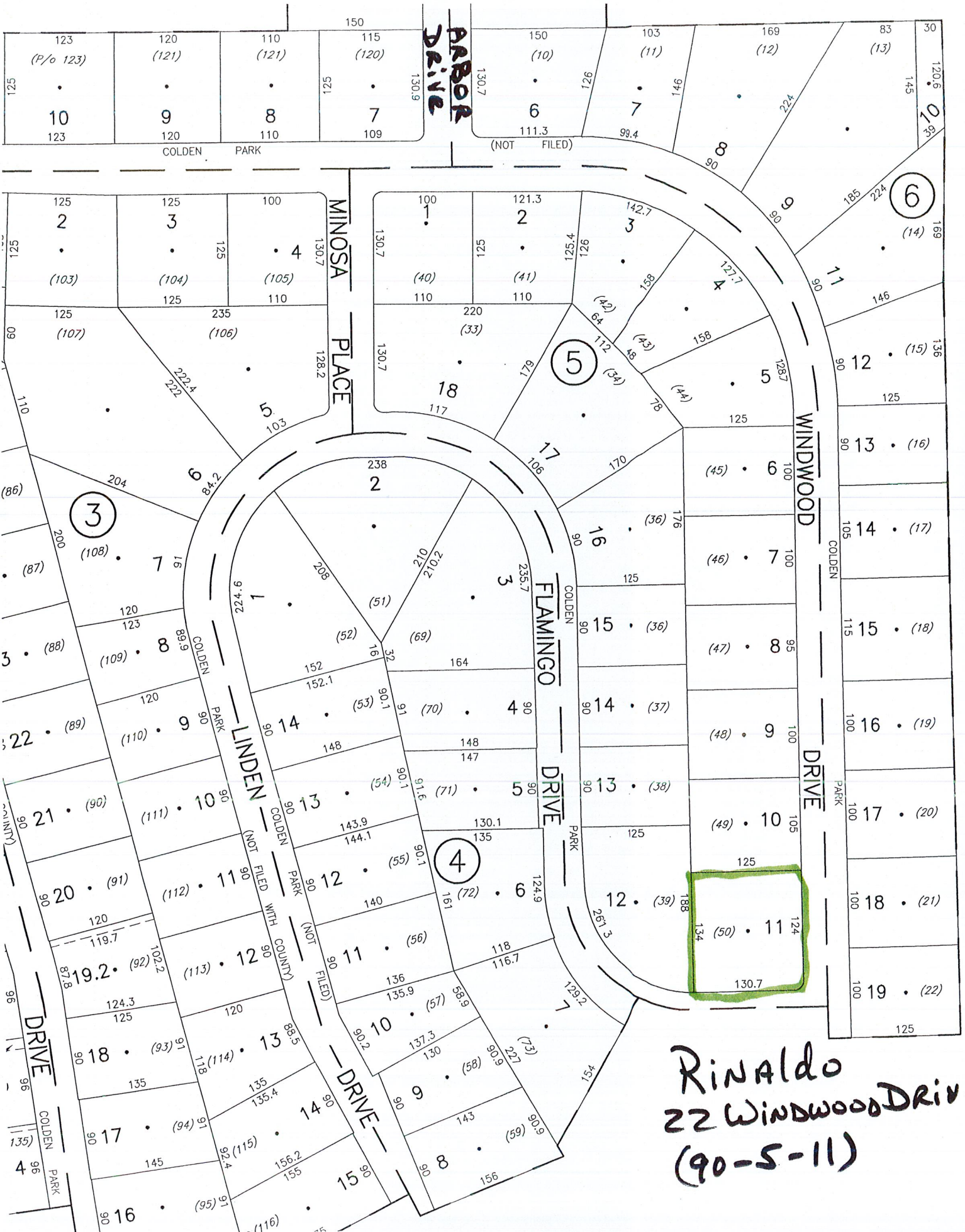


 Derrick Saunders

Sworn to before me this 7th day of October, 2013



MICHELE M. CALLAHAN
 Notary Public, State Of New York
 No. 01CA6083978
 Qualified In Orange County
 Commission Expires November 25, 20 14



Rinaldo
 22 Windwood Drive
 (90-5-11)