



**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: 64-4-21  
 (Section-Block-Lot)

Local File #: \_\_\_\_\_

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

Applicant: John Russell

Address: 1 Autumn Ridge Way, Newburgh

Attorney, Engineer, Architect: Coppola

Location of Site: 164-166 South Plank Road - TUNNIS AVENUE  
Old South Plank  
 (Street, highway, nearest intersection)

Size of Parcel: 1.2 Acres Existing Lots: \_\_\_\_\_ Proposed Lots/Units \_\_\_\_\_

Present Zoning District: B

**TYPE OF REVIEW:**

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

Variance\* (USE) (VU): Keep Existing NON-CONFORMING Single Family dw  
Allow three buildings on one lot.  
 AREA (AV): \_\_\_\_\_

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

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

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

Sketch

Preliminary

Final

DATE: 4/19/12

Grace Cardone

CHAIRPERSON, Signature and Title  
 ZONING BOARD OF APPEALS

\*Cite Section of Zoning Regulations where pertinent.

**FOR COUNTY USE ONLY**

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

# TOWN OF NEWBURGH

*Crossroads of the Northeast*

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

## USE VARIANCE APPLICATION

OFFICE OF ZONING BOARD  
(845) 566-4901

DATED: March 27, 2012

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

I (WE) John Russell PRESENTLY

RESIDING AT NUMBER 1 Autumn Ridge Way, Newburgh, NY 12550

TELEPHONE NUMBER 1-203-948-7230

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

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

1. LOCATION OF THE PROPERTY:

64-4-21 (TAX MAP DESIGNATION)

164-166 South Plank Road (STREET ADDRESS)

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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

This application is for a Use Variance. The use is for the existing single family house (referred by the building inspector, dated March 5, 2012).

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: March 5, 2012
  - b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: February 6, 2012
4. DESCRIPTION OF VARIANCE SOUGHT: Use Variance.
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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 use of the existing single family house has never been discontinued. It has always been occupied since John and Diane Russell have owned the property.  
**(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:  
The house is somewhat unique - being on a commercial property with mixed use buildings.
  - c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:  
There are no proposed changes to the existing buildings - therefore the essential character of the neighborhood will not change.

- d) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:  
The hardship has not been self-created because single family houses have not changed. The use has been lost only because of the new site plan application. According to the building inspector's letter, it has lost all existing non-conforming protection.

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:

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- 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:

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- c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

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

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

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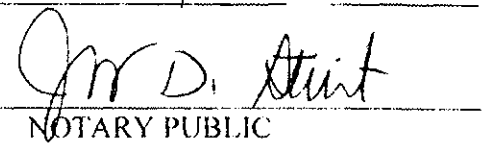
7. ADDITIONAL REASONS (IF PERTINENT):

7/26/2011 Comments from Joe Mattina (Code Compliance)  
11/14/2011 Narrative Letter from Coppola Associates to  
John Ewasutyn (Planning Board Chair)

  
PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OR ORANGE:

SWORN TO THIS 6<sup>th</sup> DAY OF February 20 12

  
NOTARY PUBLIC

JERRY D. STUIT  
Notary Public, State of New York  
Qualified in Orange County  
No. 01ST4803068  
Commission Expires March 30, 20 14

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.

## 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/  JOHN L. RUSSELL	2. PROJECT NAME  164-166 SOUTH PLANK ROAD
3. PROJECT LOCATION: Municipality TOWN OF NEWBURGH County ORANGE	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)  SOUTH PLANK ROAD WEST OF INNIS AVENUE	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY:  CHANGE OF OCCUPANCY	
7. AMOUNT OF LAND AFFECTED: Initially <u>1.2</u> acres Ultimately <u>1.2</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? Describe: <input 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	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
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 type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
X Applicant/sponsor name: Signature: <u>John L Russell</u>	Date: <u>11-8-11</u>

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

OVER

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Reset

**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:  
 None

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:  
 None

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:  
 None

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:  
 None

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:  
 None

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:  
 None

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:  
 None

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**

TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

PROXY

John Russecc, DEPOSES AND SAYS THAT  
HE/SHE RESIDES AT 1 Autumn Ridge Way, Newburgh  
IN THE COUNTY OF Orange AND STATE OF N.Y.

AND THAT HE/SHE IS THE OWNER IN FEE OF 164-166 South Plank Rd.

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-  
TION AND THAT HE/SHE HAS AUTHORIZED Coppola Associates  
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 3/29/12 John Russell  
OWNER'S SIGNATURE

Robert L. Mubrey  
WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 28 DAY OF March 20 12

Maria C. Minici

NOTARY PUBLIC

MARIA C. MINICI  
Notary Public, State of New York  
No. 31-4973682  
Qualified in Westchester County  
Certificate Filed in New York County  
Commission Expires October 29, 2014



John and Diane Russell  
1 Autumn Ridge Way  
Newburgh, NY 12550

Home: 845-728-5699, Cell John: 203-948-7230, Cell Diane: 845-728-3403

April 13, 2012

**Re: 168 South Plank Road**

Dear Sirs:

*I have been asked to provide a letter stating the financial impact, should the residence at the above address not be in existence.*

*My wife and I purchased this property in 1981 with a distinct plan. This property would be where we would retire. That property has always been a residence and for the majority of the years has housed our family and currently houses by my son, his wife, and his two children. I have to say, without that residence at this time and in this economic climate, we would not have anywhere to live when we retire. Our 401 K's have been severely impacted of late. Neither of us have pensions. We would live in the residence and have income from the rental properties. It would be enough to cover living expenses.*

*We have not asked to change the use of this building. It is our feeling that we should have been grandfathered from any further examination. It was a residence when it was built and continues to be a residence.*

Thank you,

John L. Russell  
Diane L. Russell

# TOWN OF NEWBURGH

*Crossroads of the Northeast*

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OLD TOWN HALL  
308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550

CODE COMPLIANCE DEPT.  
TELEPHONE 845-564-7801  
FAX LINE 845-564-7802

March 5, 2012

Town of Newburgh  
Zoning Board of Appeals  
308 Gardnertown Road  
Newburgh N.Y.  
12550

Re: Russell & Lee Site Plan  
164-166 S. Plank Rd.

Members of the Z.B.A.,

Please accept this correspondence as a form of referral for the above mentioned Site Plan which had been presented to the Planning Board in December of 2011. The Site which is located in a "B" zone with Municipal Water and Sewer reveals an existing one family residence in addition to several other commercial and accessory structures. In an attempt to bring the entire site into compliance and secure Building Permits and Certificates of Occupancies, it is necessary for the applicant to receive a use variance for the existing single family residence to continue. It is my understanding that due to the application presented to the Planning Board for an Amended Site Plan, the applicant has lost all existing non conforming protection. You will be receiving a separate referral for area variances from he Planning Board Attorney.

Cc: Planning Board  
Anthony Cappola R.A.

Sincerely

  
Gerald Canfield

Code Compliance Supervisor

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

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

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

28 Bruen Place  
P.O. Box 610  
Goshen, NY 10924  
Phone (845) 294-9447  
mail@doddblaw.com  
Fax (845) 294-6553  
(Not for Service of Process)

February 6, 2012

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

RE: Russell and Lee Site Plan (TNPB: 11.27)  
164-166 South Plank Road  
64-4-21 (Zone B)

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Members of the Board:

I write to you as the attorney for the Town of Newburgh Planning Board. The above referenced applicant appeared before the planning board on February 2, 2012. The applicant seeks site plan approval for three buildings on one lot. The applicant proposes to use two of the buildings as office and retail space and the third as a single-family dwelling.

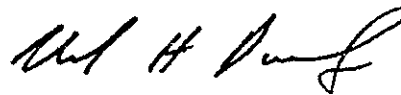
In order to accomplish this objective, several variances will be required as follows:

- Number of parking spaces;
- Front yard setback;
- Side yard setbacks for buildings #1 and #3;
- Both side yards;
- Rear yard setback.

The applicant will also be applying to you separately for a use variance as it relates to the existing single-family dwelling.

The planning board believes that it would be appropriate for you to handle these variance applications on an uncoordinated basis under SEQRA. The planning board has no other particular issues to bring to your attention or recommendations to make to you in regard to this referral.

Very truly yours,



MICHAEL H. DONNELLY

MHD/lrm

Cc: Town of Newburgh Planning Board  
David A. Donovan, Esq.  
Coppola Associates

**164 & 166 S. PLANK RD**

**JOHN RUSSEL 1 AUTUMN RIDGE WAY NEWBURGH NY 12550**

**PROJECT: CHANGE OF OCCUPANCIES.**  
**CONTRACTOR:**  
**S.B.L.: 64-4-21.1 & 64-4-21.2**  
**PHONE # 569-7933**  
**DATE: 7-26-2011**  
**APPLICATION # 11-310 & 11-309**

**PLEASE SUBMIT ALL ITEMS LISTED BELOW AT ONE TIME !!!!!**

**NO PLAN REVIEW WAS CONDUCTED  
AN AMENDED SITE PLAN FROM THE TOWN OF NEWBURGH PLANNING BOARD  
WILL BE REQUIRED.**

**VARIANCES FROM THE ZONING BOARD OF APPEALS IS REQUIRED  
ARCHITECT OR ENGINEERED PLANS WILL BE REQUIRED AFTER A SITE PLAN IS OBTAINED.**

- 1. The 2 applications submitted for the florist and church can not be issued at this time. A change of occupancy has occurred in both buildings. This required approval by the towns planning board before permits could be issued. The 2010 Building Code of New York also has requirements that must be met in order to ensure the life, health and welfare of the occupant. An order to remedy will be issued for each building. They will remain in effect until a building permit is issued and a certificate of occupancy is obtained allowing the use of these buildings.**

**Joseph Mattina  
Code Compliance**



Monday, November 14, 2011

John Ewasutyn  
Chairman  
Town of Newburgh Planning Board  
308 Gardnertown Road  
Newburgh, NY 2011

**Re: Site Plan for John Russell and Diane Lee – 164 – 166 South Plank Road  
Project #: 2011-27**

Dear Mr. Ewasutyn:

We are making an application for site plan approval based on the direction and review from the building department (see attached review letter from Joe Mattina). This review letter was generated after the owner inquired about the existing certificates of occupancy. The existing and proposed occupancies can best be described in the table below:

Building Number	Existing Use as per the Building Department records	Building Currently Occupied as:	Proposed Use
Building #1	Single Family House	Single Family House	Single Family House
Building #2	Florist	Vacant (last used as Church)	Office / Retail
Building #3	Single Family House	Florist	Office / Retail

No changes are being made to any of the existing building footprints.

The site improvements shown on the drawings include:

1. Parking lot stripping added, spaces defined over existing paved areas and handicap parking added.
2. Plastic roof enclosure removed and new parking spaces added over existing concrete pad.
3. Site lighting added.
4. Some landscaping added in the front
5. Dumpster added.

Attached herein are the site plan application, environmental assessment short form, and copies of the site plan drawings. Please feel free to call with any questions.

Sincerely,

A.J. Coppola, R.A.  
Principal  
Coppola Associates

cc: John Russell



64-4-21  
 164-166 So PLANK RD  
 Russell & Lee

Route 52

20  
 1.8A(C)  
 Winona Lake Fire  
 Co. No. 2