

October 7, 2021

**Via Email and FedEx:**

Christopher Carthy and Members of the Planning Board  
Town of North Castle  
17 Bedford Road  
Armonk, New York 10504-1898

**Re: Amended Site Plan 428-436 Main Street LLC**

Dear Chairman Carthy and Members of the Planning Board,

Our firm represents 428-436 Main Street, LLC the owner of the above referenced property located at 428-436 Main Street in Armonk, New York.

Our client was last before this Planning Board in May of 2013 for this particular property, at which time a Resolution of Approval for an Amended Site Plan (the May 2013 Resolution) was issued by your Board pursuant to a Parking Plan, undated, received by the then-Planning Board on May 2, 2013 and as prepared by Michael A. Piccirillo Architect, A.I.A.

The May 20, 2013 Resolution of the then-Planning Board (**Exhibit A**) expired on May 20, 2014 as all of the conditions set forth in the Resolution had not been satisfied by that date.

You will be receiving contemporaneously with my letter the Amended Site Plan, dated September 17, 2020, and an application for that amendment, both as prepared by Site Design Consultants, our client's civil engineer for this application.

The purpose of my letter is to present and reinforce our client's legal position with regard to both the mix of uses for the property and the on-site parking.

Attached hereto as **Exhibit B** is a sketch of the current uses to be found at the property on a floor-by-floor basis.

**Exhibit A**, in its preamble, sets forth that "the current site does not contain any legal off-street parking spaces."

# Hollis Laidlaw & Simon

We disagree with both that mistaken belief as to the legality of parking spaces and the fact that change-of-use permits have not been issued by the Town since 2013 for the subject property based upon this mistaken belief.

This property contains one of the oldest commercial buildings in Armonk and in April of 1953 the Town ZBA granted a variance to a predecessor in our client's chain of title for an extension to a liquor store based upon a Survey submitted by Ralph Lander, dated March 23, 1953 (**Exhibit C**). A copy of the ZBA Resolution dated April 9, 1953 is attached as **Exhibit D**.

**Exhibit E** is a Resolution of Approval by the ZBA for an area variance dated December 20, 1996 and the minutes of the December 5, 1996 ZBA meeting at which that Resolution was voted upon (**Exhibit F**) are most compelling. The Resolution (**Exhibit E**) granted a variance entitled to "ALLOW A CHANGE OF USE FOR A PREMISES WHICH HAS NO PARKING" (emphasis added). There is no mention of the number of spaces necessary to be waived as a result of the proposed change of use. Rather, the Resolution refers to a premises which has **NO** parking and, most notably, the ZBA approved the variance without any parking requirement, far different than the parking layout set forth on the September 17, 2020 Amended Site Plan. A discussion of the law with regard to the fact that variances run with the land will be presented below.

The Minutes of December 5, 1996 are even more telling and compelling as there is a discussion of the mix of retail/office/residential uses, the age (150 years old) and historical uses of the property (grocery store, liquor store, Post Office, an apartment , all with no recorded agreement with the abutting property owner as to ingress and egress and shared parking ), the historical lack of parking for the uses, the fact that spaces are not marked. But most compelling is the motion made by Member Nagle at the bottom of page 5 of **Exhibit F**...

"I would like to make a motion. Because of the preexisting, non-conforming nature of the building, I think you have a very difficult situation and the benefit to the applicant clearly outweighs the detriment to the community parking laws. The variance is substantial, but that is somewhat ameliorated by the preexisting nature of the situation. Increased density is another problem, but it is ameliorated by the situation of the pre-existing non-conforming."

The motion was discussed, expanded upon and passed unanimously with a granting of a variance and a finding of fact that the prior non-conformity entitled the applicant to the variance based upon the balancing test weighing in favor of the then applicant/owner.

It is respectfully submitted that the Town has most recently and mistakenly refused change of use permits (most recently with regard to a hair salon replacing an existing hair salon) without proper reliance on the above **Exhibits E & F**.

In fact, this position has not always and/or consistently been the Town's position as the Town has previously, and properly, issued a Certificate of Compliance for a sign for an insurance agency (2004, **Exhibit G**), a Certificate of Occupancy for a retail photography studio

# Hollis Laidlaw & Simon

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(**Exhibit H**), a Certificate of Compliance for an interior design business (**Exhibit I**) when there have been changes of use.

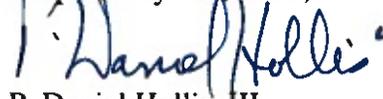
The legal bases which support the grant of the approval for the requested amended site plan begin with an analysis of legal standard that existing area variances run with the land and continues with an analysis of the weight of a prior determination on a present application as to a prior, legal non-conforming use.

New York State courts have repeatedly held that absent a time limit set in the variance, an area variance runs with the land and remains effective until it is properly revoked. *St. Onge v. Donovan*, 71 N.Y.2d 507, 520, 522 N.E.2d 1019 (1988) (“It is basic that a variance runs with the land and, absent a specific time limitation, it continues until properly revoked”); *Cooperstown Eagles, LLC v. Vill. of Cooperstown Zoning Bd. of Appeals*, 161 A.D.3d 1433, 1435, 77 N.Y.S.3d 716 (3d Dep’t 2018) (“the issuance of “a variance is not personal to the owner-applicant; it runs with the land”). In *Matter of Holthaus v Zoning Bd. of Appeals of Town of Kent*, the petitioner land-owner sought to compel the Zoning Board of Appeals to reaffirm and acknowledge the area variance granted to his property while it was held by his predecessor in interest and which entitled him to a building permit as of right, notwithstanding the current zoning ordinances. The Board denied the application, finding the variance had lapsed due to non-use. However, because the Board that issued the variance did not impose a durational limit and it had never been revoked, the Appellate Division found that the current Zoning Board’s determination was arbitrary and capricious. See *Holthaus v. Zoning Bd. of Appeals of Town of Kent*, 209 A.D.2d 698, 699–700, 619 N.Y.S.2d 160 (2d Dep’t 1994); see also *Johnson v. Town of Queensbury Zoning Bd. of Appeals*, 8 A.D.3d 741, 743, 777 N.Y.S.2d 562 (3d Dep’t 2004) (“a variance is not personal to the owner-applicant; it runs with the land”); *Beaudin v. Town of Alexandria Plan. Bd.*, 233 A.D.2d 855, 649 N.Y.S.2d 278 (4<sup>th</sup> Dep’t 1996); *Collins v. Vill. of Head-of-the-Harbor*, 59 Misc. 3d 1216(A), 97 N.Y.S.3d 55 (Suffolk County Sup. Ct. 2018).

In 1996, the Zoning Board of Appeals granted an area variance allowing a change of use for a premises which was found to have no parking, specifically to allow a retail use at the subject premises. See **Exhibit E**. The only conditions that the Zoning Board of Appeals imposed were that the work be initiated within two years from the date of the resolution and that the applicant obtain the proper building permit, review of state and local codes, and surveys required by the building inspector. The Zoning Board of Appeals did not impose any durational limit. The premises then began to be used for retail purposes within two years and neither the current property owner or any of its predecessors in title revoked the variance. Accordingly, it is respectfully submitted that the variance has not lapsed and is still in effect and that this Board must honor it.

For all of the reasons set forth herein, we respectfully submit that the application, as submitted, be approved and that the holdings of **Exhibits E & F** be followed presently and going forward.

Respectfully submitted,



P. Daniel Hollis, III

# **Exhibit A**



**TOWN OF NORTH CASTLE  
WESTCHESTER COUNTY  
17 Bedford Road  
Armonk, New York 10504-1898**

**Telephone: (914) 273-3542  
Fax: (914) 273-3554  
[www.northcastleny.com](http://www.northcastleny.com)**

**PLANNING BOARD  
Arthur Adelman, Chair**

**R E S O L U T I O N**

<b>Action:</b>	Site Plan Approval
<b>Project Name:</b>	Santomero Amended Site Plan
<b>Owner/Applicant:</b>	428-436 Main Street LLC
<b>Designation:</b>	Section 2, Block 13, Lot 8 (108.01-6-24)
<b>Zoning District:</b>	CB
<b>Location:</b>	430 Main Street
<b>Area:</b>	10,918 square feet
<b>Approval Date:</b>	May 20, 2013
<b>Expiration Date:</b>	May 20, 2014 (1 year)

WHEREAS, on April 8, 2013, an application for site plan approval was submitted to the Planning Board and the requisite fee was paid; and

WHEREAS, the application consists of the following drawing:

- Plan entitled "Parking Plan," (undated) received by the Planning Board on Map 2, 2013, prepared by Michael A Piccirillo Architect, A.I.A.

WHEREAS, the Applicant is seeking amended site plan approval for the establishment of 7 off-street parking spaces; and

WHEREAS, the current site does not contain any legal off-street parking spaces; and

WHEREAS, the proposed site plan will decrease the existing off-street parking non-conformity; and

WHEREAS, the 10,918 square foot property is located in the CB Zoning District and is designated on the Tax Maps of the Town of North Castle as Section 2, Block 13, Lot 8 (108.01-6-24); and

WHEREAS, an Environmental Assessment Form dated April 8, 2013 was prepared by the Applicant and submitted to the Planning Board for its review and consideration; and

WHEREAS, the proposed action is a Type II Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the application for site plan approval requires referral to the Westchester County Planning Board pursuant to § 239-m of New York State General Municipal Law (GML) since the subject site is located within 500 feet of NYS Route 128; and

WHEREAS, the project was referred to the County on April 23, 2013; and

Site Plan Approval for:

**Santomero**

May 20, 2013

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WHEREAS, the site plan was forwarded to the Chief of Police, Fire Inspector and the Armonk Fire Chief so that they may make any pertinent recommendations to the Planning Board including, but not limited to, the designation of no-parking zones, emergency vehicle access or any other issued deemed important to providing emergency services; and

WHEREAS, the emergency service providers did not express any concerns; and

WHEREAS, a duly advertised public hearing regarding the site plan was conducted on May 20, 2013 at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Planning Board has requested, received and considered comments from the Town Attorney, the Consulting Town Engineer and the Town Planner regarding the proposed development; and

WHEREAS, the Planning Board is familiar with the nature of the site, the surrounding area and the proposed development; and

WHEREAS, the requirements of the Zoning Ordinance and the Town of North Castle Comprehensive Plan Update have been met; and

NOW, THEREFORE, BE IT RESOLVED, that the application for site plan approval as shown on plan entitled "Parking Plan," (undated) received by the Planning Board on May 2, 2013, prepared by Michael A Piccirillo Architect, A.I.A., as described herein, be and is hereby conditionally approved, subject to the following conditions and modifications; and

BE IT FURTHER RESOLVED, this site plan permit approval, pursuant to Section 213-41 of the Town Zoning Code, shall be deemed to authorize only the particular use(s) shown on the approved site plan and shall expire if work is not initiated in accordance therewith within one (1) year, or if the use(s) for which site plan approval was granted ceases for more than one (1) year from the date of the issuance of the certificate of occupancy, or if all required improvements are not completed within eighteen (18) months of the date of this approval, or if all such required improvements are not maintained and all conditions and standards of this approval are complied with throughout the duration of the use(s).

Site Plan Approval for:

**Santomero**

May 20, 2013

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**Prior to the Signing of the Site Plan:**

*(The Planning Board Secretary's initials and date shall be placed in the space below to indicate that the condition has been satisfied.)*

- \_\_\_\_\_ 1. The site plan contains a parking data chart. The chart makes reference to floor area associated with retail uses. The Applicant shall submit floor plans for the buildings. In addition, all tenant spaces shall be identified by name, use, and area (square feet) to the satisfaction of the Town Planner.
- \_\_\_\_\_ 2. The three spaces located at the northern end of the property should be removed. These spaces do not have an adequately sized backup area without leaving the subject property. These spaces cannot be counted as off-street parking as currently depicted.
- \_\_\_\_\_ 3. The site plan does not depict any safety lighting in the rear parking area. The site plan shall be revised to include such lighting along with fixture details and a photometric plan or, in the alternative, the site plan shall be revised to depict the existing location(s) of such lighting.
- \_\_\_\_\_ 4. The improvement plans prepared by the applicant's consultants shall be coordinated and cross-referenced.
- \_\_\_\_\_ 5. The plans shall indicate all existing features to be removed/relocated (foundation, propane tank, etc.), as well as all proposed improvements with dimensions, elevations, topography and details, as required by the Town Engineer.
- \_\_\_\_\_ 6. Proposed parking stalls shall be dimensioned. Required pavement markings and signage for handicap accessible spaces and access aisles shall be shown and detailed, as required by the Town Engineer.
- \_\_\_\_\_ 7. The plans shall clearly indicate the limits of existing and proposed asphalt areas and curb. Provide pavement and curb details, as required by the Town Engineer.
- \_\_\_\_\_ 8. The plan shall include a refuse container area. Access to this area for carting pick-up should be demonstrated to the satisfaction of the Town Engineer. Provide enclosure detail, as required by the Town Engineer.
- \_\_\_\_\_ 9. Rim and invert elevations shall be provided for the proposed drywell. Sizing calculations shall be provided to support the proposed mitigation of the added impervious surface as required by the Town Engineer. Soil testing shall be conducted by the applicant and witnessed by the Town Engineer.
- \_\_\_\_\_ 10. The limits of disturbance shall be shown and quantified on the plan. Sediment and erosion controls shall be indicated on the plans, as required by the Town Engineer.

Site Plan Approval for:

**Santomero**

May 20, 2013

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- \_\_\_\_\_ 11. The applicant shall submit, as necessary and appropriate, final details to the satisfaction of the Town Engineer of site, final grading and storm drainage, utility connections, sight lines and curbing, parking, driveway and pavement specifications.
- \_\_\_\_\_ 12. Payment of all applicable fees, including any outstanding consulting fees.
- \_\_\_\_\_ 13. The Applicant shall submit to the Planning Board Secretary six (6) sets of plans (with required signature block) incorporating all required amendments to the plans as identified in this resolution of approval to the satisfaction of the Town Planner, Town Engineer and Town Attorney.
- \_\_\_\_\_ 14. Return of the "Planning Board Notification" sign in reusable condition with stand. If such sign is not returned as previously described a payment of \$25.00 made payable to the Town of North Castle shall be required.

**Prior to the Issuance of a Building Permit:**

*(The Planning Board Secretary's initials and date shall be placed in the space below to indicate that the condition has been satisfied.)*

- \_\_\_\_\_ 1. The approved site plan shall be signed by both the Planning Board Chair and Town Engineer.
- \_\_\_\_\_ 2. Payment of all outstanding fees, including professional review fees.

**Prior to the Issuance of a Certificate of Occupancy:**

*(The Planning Board Secretary's initials and date shall be placed in the space below to indicate that the condition has been satisfied.)*

- \_\_\_\_\_ 1. The submission to the Town Building Inspector of an "As Built" site plan.

**Other Conditions:**

1. All landscaping shown on this plan shall be maintained in a vigorous growing condition throughout the duration of the use. All plants not so maintained shall be replaced with new plants of comparable size and quality at the beginning of the next immediately following growing season.
2. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.

Site Plan Approval for:

**Santomero**

May 20, 2013

Page 5 of 5

APPLICANT, agreed and understood as to contents and conditions, including expiration, contained herein

\_\_\_\_\_  
Date

\_\_\_\_\_  
428-436 Main Street LLC

NORTH CASTLE PLANNING OFFICE,  
as to approval by the North Castle Planning Board

\_\_\_\_\_  
Date

\_\_\_\_\_  
Valerie B. Desimone, Planning Board Secretary

KELLARD SESSIONS CONSULTING P.C.  
As to Drainage and Engineering Matters

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joseph M. Cermele, P.E.  
Consulting Town Engineer

STEPHENS BARONI REILLY & LEWIS LLP  
As to Form and Sufficiency

\_\_\_\_\_  
Date

\_\_\_\_\_  
Roland A. Baroni, Jr. Esq., Town Counsel

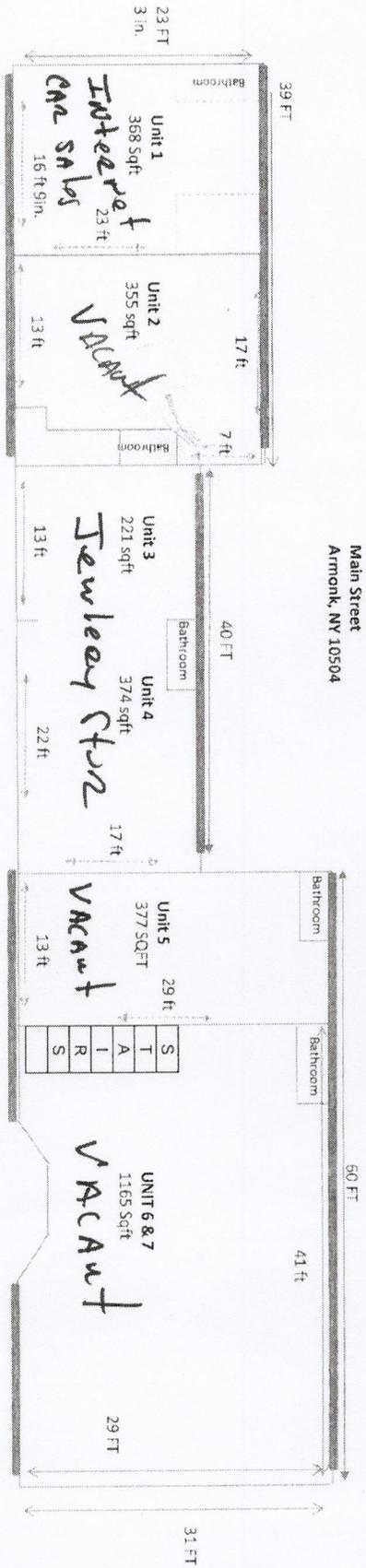
NORTH CASTLE PLANNING BOARD

\_\_\_\_\_  
Date

\_\_\_\_\_  
Arthur Adelman, Chair

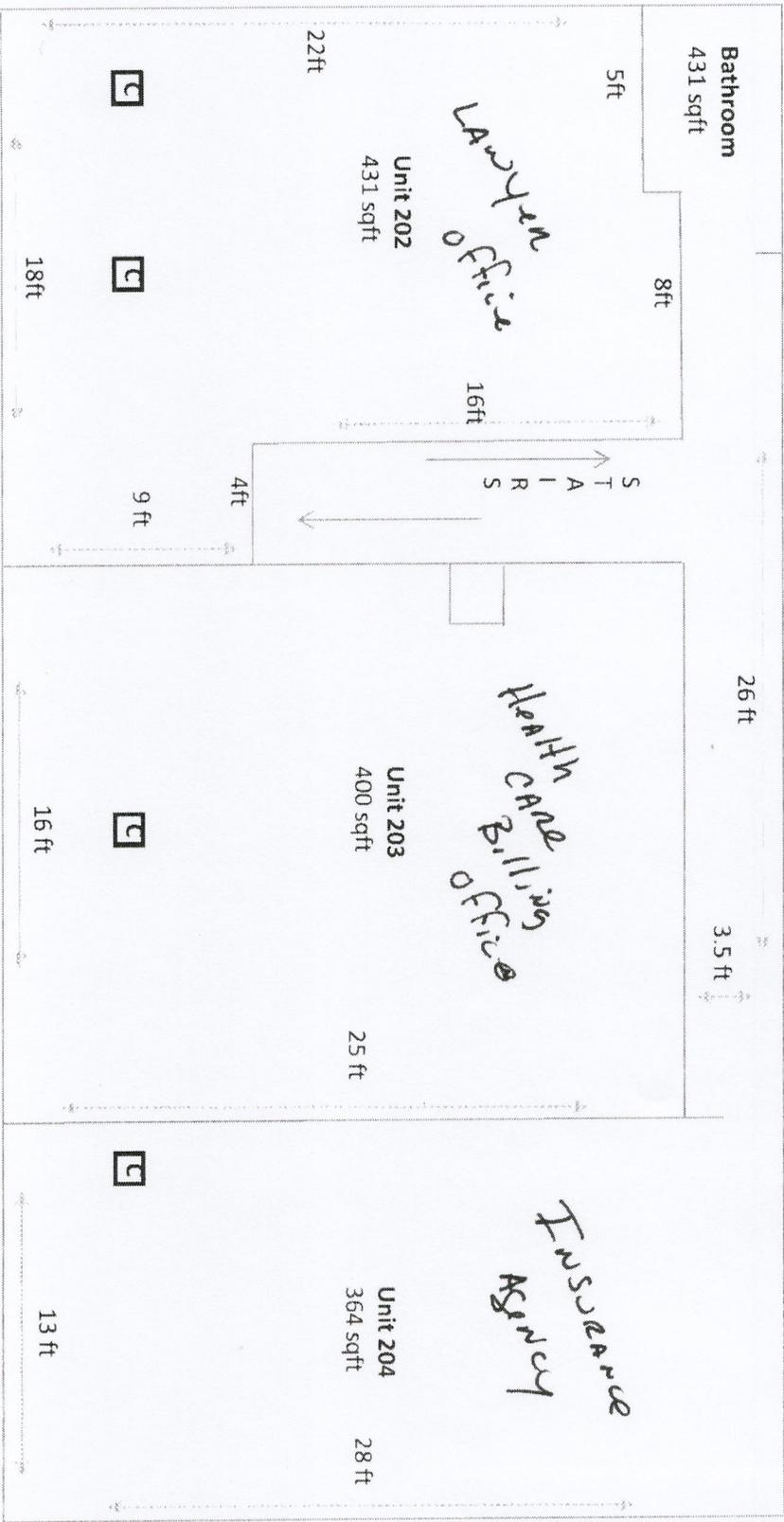
# **Exhibit B**

BUILDING 351  
Main Street  
Armonk, NY 10504



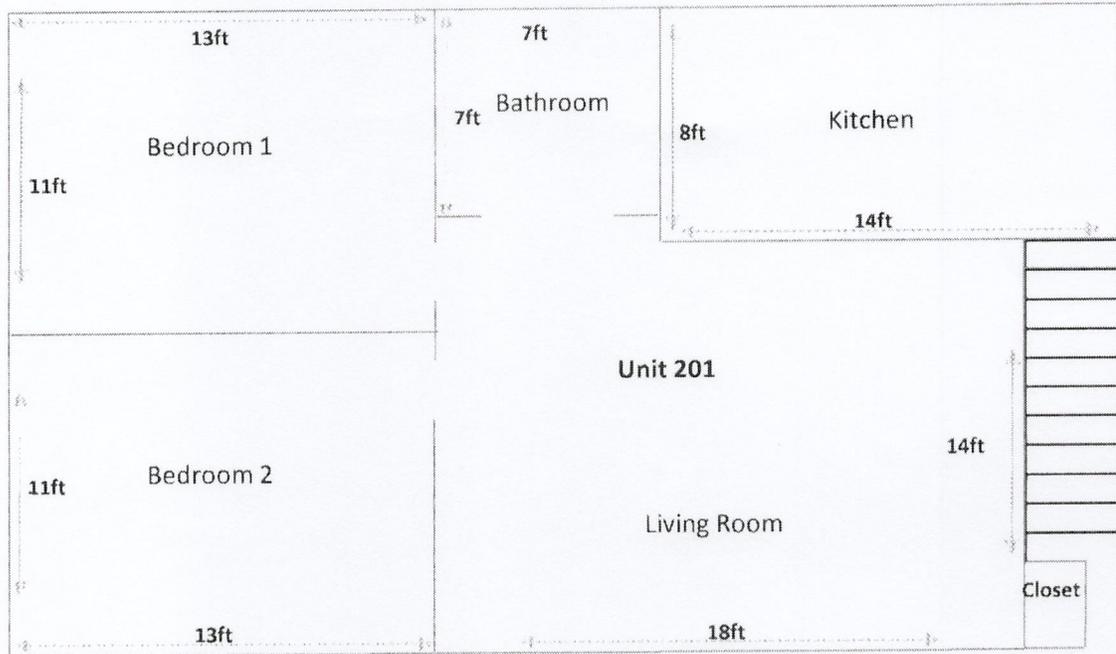
GUTTER

First Floor



2nd Floor Office

Troffer 2'x2' LED Lights



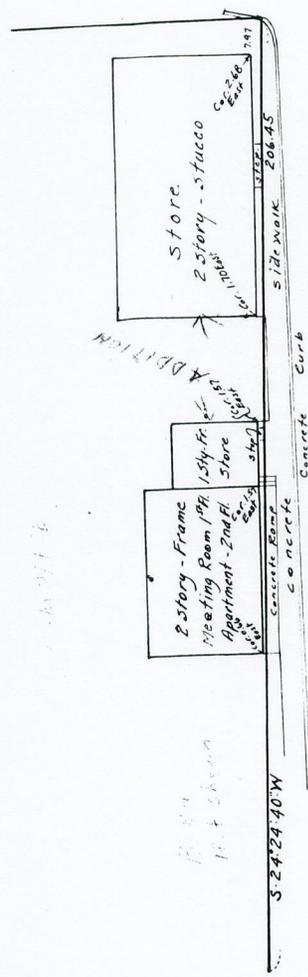
Apartment 2nd Floor  
700 Sqft

*Occupied  
Apartment*

# **Exhibit C**



MAPLE AVE.



MT. KISCO ROAD

SURVEY OF PROPERTY  
 PREPARED FOR  
**RALPH M. LANDER**  
 TOWN OF NORTH CASTLE - WESTCHESTER CO., N.Y.  
 SCALE 1"=20' MARCH 23, 1935  
*Ralph L. Fairbank*  
 N.Y. STATE LIC. NO. 9080

# **Exhibit D**

RESOLUTION ON APPLICATION

Before the  
ZONING BOARD OF APPEALS  
of the Town of North Castle

FILED  
APR 17 1953

----- X  
IN THE MATTER OF THE APPLICATION

TOWN OF NORTH CASTLE, N. Y.  
JOS. V. MILLER, Town Clerk

of  
Ralph Lander  
Armonk, N. Y.

CAL. No.

for permission to build an extension on liquor store so as to be in alignment with the other buildings in accordance with submitted plans

on premises, Maple Avenue and Route 128  
in the Town of North Castle, New York, being  
Lot No. 8, Block No. 13,  
Ward No. 2, on the Assessment Map of the  
said Town

----- X

IT APPEARING that Ralph Lander has  
heretofore applied to this Board for permission to build an extension on liquor store so as it will be in alignment with other buildings in accordance with submitted plans

on certain premises in the Town of North Castle known as Block No. 13  
Section 2 and #8 Lot on the Assessment Map of the Town of  
North Castle

and due public notice having been duly given of a hearing on said application to be held on the 9th day of April 19 53 , and the applicant having appeared by *person* in support of said application and *none* appearing in opposition, and after due consideration it appearing to the satisfaction of this Board that said appeal can be granted without detriment to the health, safety, morals, comfort, convenience, or general welfare of the community, and that the use applied for is a reasonable one for the premises involved; that practical difficulties and unnecessary hardship would result in carrying out the strict letter of the ordinance, and that by granting said application the spirit of the ordinance will be observed, public safety secured and substantial justice done.

NOW THEREFORE, RESOLVED, that **Ralph Lander**

**Armonk, N. Y.** is hereby authorized to build an extension on liquor store so as it will be in alignment with other buildings in accordance with submitted plans

on the premises in the Town of North Castle, New York, known as  
Block 13, Section 2, Lot 8  
on the Assessment Map of the Town of North Castle

in accordance with plans and specifications theretofore to be  
submitted to and approved by the Board, conditioned nevertheless  
upon the following:

Dated, **April 9, 1953.**

ZONING BOARD OF APPEALS OF THE TOWN OF  
NORTH CASTLE

*George J. Smith*  
Chairman

I HEREBY certify the above to be a full, true and correct  
copy of a resolution duly adopted by the Zoning Board of Appeals  
of the Town of North Castle on the date above mentioned, *Three*  
members of the Board being present and concurring.

*Elizabeth Pietschker*  
Secretary

FILED  
APR 17 1953

TOWN OF NORTH CASTLE, N. Y.  
JOS. W. MILLER, Town Clerk

Affidavit of Publication

PUBLIC NOTICE

NOTICE OF HEARING OF APPLICATION TOWN OF NORTH CASTLE

Before The Board of Appeals, Application of: Ralph Lander. NOTICE is Hereby Given that the Application of Ralph Lander, Residing at Armonk, N. Y., for permission to erect an addition to his liquor store on the premises at Main Street, Armonk, N. Y. In Said Town, will be Heard by the Board of Appeals at Town Hall In Said Town of North Castle, on April 9, 1953 At 8 O'Clock P.M. and by adjournment at other times if Necessary.

All persons interested are requested to attend and give their evidence. Dated, White Plains North, N. Y. March 24, 1953

ELIZABETH PIETSCHKER Secretary, Board of Appeals

STATE OF NEW YORK, } ss: County of Westchester, }

BARBARA B. LOUNSBERY

being duly sworn says

he is PRINCIPAL CLERK

of the THE VILLAGER

a newspaper published in the Town of BEDFORD, County

of Westchester, and State of New York, and that a notice, of

which the annexed printed notice is a copy, has been published

in the THE VILLAGER 2 times,

once each week for 2 successive weeks, that

such publication was made in the issues of:

MARCH 26, 1953

April 2, 1953

FILED APR 17 1953

TOWN OF NORTH CASTLE, N. Y. JOR. L. MILLER, Town Clerk

Barbara B Lounsbery Principal Clerk

Sworn before me this 3rd day of April, 1953

Gertrude M. Grimes Notary Public

NOTARY PUBLIC IN THE STATE OF NEW YORK APPOINTED FOR WESTCHESTER COUNTY

\*This affidavit must be made and executed by the Publisher, Principal Clerk or Foreman of the composing room.

March 24, 1953

Mr. Ralph M. Lander  
Main Street  
Armonk, New York

Dear Mr. Lander:

Your application for a building permit to build an addition on your liquor store on property designated as Section 2, Block 13, Lot 8, is denied because such improvement would be in violation of the set-back requirement of our zoning ordinance.

You will have to apply to the Zoning Board of Appeals for a variation in order to obtain permission to proceed with the desired improvement.

Very truly yours,

*Clarence Abrams*

Clarence Abrams  
Building Inspector

CA:dl

FILED  
APR 17 1953

TOWN OF NORTH CASTLE, N. Y.  
JOS. T. MILLER, Town Clerk



DEPARTMENT OF POLICE  
TOWN OF NORTH CASTLE  
ARMONK, NEW YORK

April 7th, 1953

Mrs. Elizabeth Pietschker, Secretary  
Zoning Board of Appeals  
Town of North Castle  
118 Nethermont Avenue  
White Plains, N. Y.

Dear Mrs. Pietschker:

Ref: Ralph M. Lander  
Main Street, Armonk, N.Y.

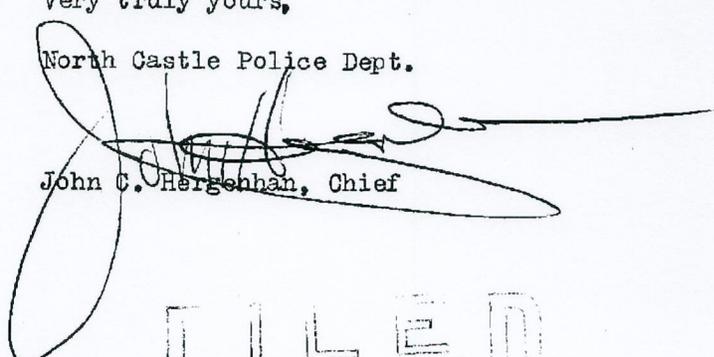
We have been notified by Mr. Lander that he anticipates the construction of an addition to his existing building on Main Street at Maple Avenue in Armonk, the same being a violation of the Zoning Ordinance.

Upon studying and inspecting the affected premises, we find that it is his intention to close off an existing alley by joining two existing structures. This addition would remove a small area which could possibly be used for parking purposes, but due to the slope and contour of the ground together with difficult entrance and exit to the highway from the alley it is not practical.

The nature of the business in which Mr. Lander wishes expand is not the type which will create additional parking problems and we therefore see no objection to his being permitted to construct this addition.

Very truly yours,

North Castle Police Dept.

  
John C. Hergenhan, Chief

JCH/rf

cc: Mr. Ralph Lander

FILED  
APR 17 1953

TOWN OF NORTH CASTLE, N.Y.  
JOHN A. MILLER, Town Clerk

TOWN OF NORTH CASTLE  
HIGHWAY DEPARTMENT  
ARMONK, NEW YORK

April 7th, 1953

ALVAH SEE  
SUPERINTENDENT OF HIGHWAYS

Zoning Board of Appeals  
Town of North Castle  
Armonk, New York

Attention: Mr. George Smith, Chairman

Gentlemen:

I have considered the application of Ralph Lander for an extension of his liquor store and can find no objections to the proposed improvement from a highway point of view.

Very truly yours,



Alvah See  
Highway Superintendent

AS/rf

cc: Mr. Ralph Lander

FILED  
APR 17 1953

TOWN OF NORTH CASTLE, N. Y.  
JOS. E. MILLER, Town Clerk



STATE OF NEW YORK  
DEPARTMENT OF LABOR

DIVISION OF INDUSTRIAL HYGIENE AND SAFETY STANDARDS

EDWARD CORSI  
INDUSTRIAL COMMISSIONER  
THOMAS F. MOORE, JR.  
FIRST DEPUTY INDUSTRIAL COMMISSIONER  
EDWARD A. NYEGAARD  
DEPUTY INDUSTRIAL COMMISSIONER

NEW YORK, N. Y.

Empire State Bldg.  
New York 1, N. Y.  
March 19, 1953

Plan No. SM - 13, 648

LEONARD GREENBURG, M.D.  
DIRECTOR

Re: Addition  
Ralph M Lander  
N/E Main Street - and Maple Avenue  
Armonk, New York

FILED  
APR 17 1953

Mr. Ralph M/ Lander  
Main Street  
Armonk, New York

TOWN OF NORTH CASTLE, N. Y.  
JOSEPH MILLER, Town Clerk

Dear Sir:

Upon examination of your plans and application for the above project, the following is noted:

- DESCRIPTION

Existing building

Height:	Two story, no cellar
Dimensions:	(Portion of the building occupied by Liquor Store) 14' by 16'
Date of Construction:	Before July 1, 1924
Use:	Liquor Store
Occupancy:	One Male

Construction:

Exterior Walls:	Wood Frame
Roof:	Wood on wood rafters with asphalt shingles
Floor:	
<u>First Floor:</u>	Concrete slab on ground

Proposed addition:

Height:	One Story, no cellar
Dimensions:	23' 1" by 18'6"
Location:	Adjoins the north wall of the existing building
Use:	As described above
Occupancy:	No change in personnel

Construction:

As described above

Exits:

In the party wall separating the existing and proposed section, there will be a 3' wide opening affording access to the existing building, in the west wall of which there will be a 3' wide inswinging grade door.

Sanitation:

Sanitary facilities will be installed in accordance with the requirements of Industrial Code Rule No. 9.

2.

APPROVAL

Basing this action on the requirements of the Labor Law and Industrial Code Rules, assuming no responsibility for the adequacy of the structural elements involved, two sets of plans were returned approved.

A set of approved plans shall be retained on the premises at all times in order that the inspectors of this Department may consult them in the course of their inspections.

If it is desired to deviate from these plans, we request that you so advise and, if necessary, submit revised plans.

Very truly yours,

LEONARD A. PERRIN, Director  
Division of Engineering

by: \_\_\_\_\_

CARL O ROACH

COR/bj  
2cPowers - lcMart  
lcBI

FILED  
APR 11 1953

TOWN OF NORTH CASTLE, N.Y.  
J. H. ...

Tel. Armonk Village 976

# LANDER BROTHERS

Groceries - Meats - Dry Goods - Notions - Hardware - Feed

Main Street - Armonk, N. Y.

## LIST OF PROPERTY OWNERS WITHIN 250' OF PREMISES

<u>Name</u>	<u>Address</u>	<u>Location</u>		
		<u>Section</u>	<u>Block</u>	<u>Lot</u>
Charles Capriola	Armonk, New York	2	11	3A
James Fumanio	Armonk, New York	2	13	7
John Trerotola	Armonk, New York	2	14	1 & 2
Ralph MacDonald	Armonk, New York	2	2	25B
Alice Farrington	Armonk, New York	2	13	9

FILED  
APR 17 1953

TOWN OF NORTH CASTLE, N. Y.  
JOS. W. MILLER, Town Clerk

TOWN OF NORTH CASTLE  
ZONING BOARD OF APPEALS

FILED  
APR 17 1983

TOWN OF NORTH CASTLE, N.Y.  
JOS. L. MULLER, Town Clerk

APPLICATION FOR PERMIT OR VARIANCE

	Names and Addresses	Address:
Applicant:	Ralph Lauder	Armonk, N.Y.
Owner:	Ralph Lauder	Armonk, N.Y.
Lessee:	—	—
Attorney or Agent:	—	—

TO THE ZONING BOARD OF APPEALS:

1. Application is hereby made under the discretionary power vested in you by Article I Section 6 Par. 5 of the Zoning Ordinance of the Town of North Castle for (state below the relief requested).

*permission to build an extension of my liquor store so as to be in alignment with my other buildings in accordance with submitted plans.*

2. THE PREMISES AFFECTED are situate in the Town of North Castle *on the east* side of Main St. (Rt 128) ~~Street (Avenue)~~ distant *of 65* feet of the corner formed by the intersection of Maple Ave & Rt 128 and are classified in the Business A Zone District; and are known as Lot 8 Block 13, Section 2 on the Assessment Map of said Town *of North Castle*

3. This Application relates to:

USE	AREA	YARDS	HEIGHT	DENSITY OF POPULATION	<u>SET-BACK</u>
-----	------	-------	--------	-----------------------	-----------------

4. In connection with - A PROPOSED - AN EXISTING - BUILDING.

( IF WORK CONSTITUTES AN ALTERATION OR EXTENSION TO AN EXISTING BUILDING, DESCRIBE BRIEFLY ).

*Extension of liquor store along Main St. in accordance with attached plans.*

QUESTIONNAIRE

FILED  
APR 17 1953

WILHELMINA CASTLE, N. Y.  
Town Clerk

5. (a) Has any previous application or appeal been filed with this Board in connection with these premises? No
- (b) What is the applicant's interest in the premises affected?  
owner
- (c) Has court summons been served relative to this matter?  
No
- (d) What is the approximate cost of the work involved by this order? \$2500<sup>00</sup>
- (e) Under what section of the Zoning Ordinance do you base your application? Article I Section 6 Par. 5
- (f) Name or names of the person or persons interested in the proposed construction as owner, contractor for the furnishing of labor, materials, money or other service in furtherance of the enterprise. Ralph Lander - owner
- (g) Provisions of any deed, covenants or restrictions affecting the kind of improvements allowed or prohibited upon the premises:  
none

6. I attach hereto as part of this application the data required in the instructions, to wit:

1. Letter of rejection from Building Inspector.
2. List of property owners within 250' of premises.
3. Plot Plan & Building Plans.
4. Proofs of service by Registered mail to adjoining property owners.
5. Proof of Publication of notice of Hearing.
6. Letters from Chief of Police & Supt of Highways.

I hereby depose and say that all the above statements and the statements contained in the papers submitted herewith are true.

Sworn to before me this  
30<sup>th</sup> day of March 1953

Ralph A. Lander  
(Applicant sign here)

Joe T. Miller JOE T. MILLER  
Notary Public Notary Public in the State of New York  
Appointed for: Worcester County  
Commission expires March 30, 1953

NOTE: Ten days' Notice of Hearing must be given by publication as provided by the Ordinance and Rules.

# **Exhibit E**

**Zoning Board of Appeals**

Town of North Castle  
17 Bedford Road - Town Hall Annex  
Armonk, New York 10504

RESOLUTION OF APPROVAL FOR AREA VARIANCE

ZONING BOARD OF APPEALS  
TOWN OF NORTH CASTLE

-----X

In the matter of the Application

of

JOHN C. DEAN & RICHARD S. LOWERY

-----X

WHEREAS, applicant, JOHN C. DEAN & RICHARD S. LOWERY

owner of property located on 423 MAIN STREET, ARMONK, NEW YORK  
and known on the tax assessment map of the Town of North Castle as  
Section 2, Block 13, Lot 8, has applied for  
the following variance(s) from the provisions of the Zoning Code of the  
Town of North Castle: (A VARIANCE TO ALLOW A CHANGE OF USE FOR A  
PREMISES WHICH HAS NO PARKING)

SECTION 213-45: CB ZONE - ONE(1) OFF STREET PARKING SPACE IS  
REQUIRED FOR EACH 200 SQ.FT. OF GROSS FLOOR AREA.

WHEREAS, prior to the hearing, members of the Board of Appeals con-  
ducted an inspection of the premises and surrounding neighborhood; and

WHEREAS, on DECEMBER 5, 1996, the Board conducted  
a duly noticed public hearing on the application (which was adjourned to  
and continued on \_\_\_\_\_) at which time all interested  
parties had the opportunity to be heard; and

RESOLUTION OF APPROVAL; Area Variance

WHEREAS, the applicant has submitted proof of proper notice to nearby property owners required to receive notice thereof:

NOW, THEREFORE, the Board of Appeals makes the following findings:

1. The requested activity is a Type 2 action under the State Environmental Quality Review Act.
2. That the variation is substantial in relation to the requirement, but is somewhat ameliorated by the pre-existing nature of the situation.
3. That the effect of any increased population density which may thus be produced upon available services and facilities is significant, but the intensity of use is not materially different from the previous occupant.
4. That a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties will not be created.
5. That the difficulty cannot be alleviated by some method feasible for the applicant to pursue other than a variance.
6. That, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.
7. That the variance would not cause adverse aesthetic, environmental or ecological impacts on the property or on surrounding areas.

RESOLUTION OF APPROVAL; Area Variance

NOW, THEREFORE, BE IT RESOLVED, that the application for relief by the grant of a variance from the requirements of the Zoning Code of the Town of North Castle is(are) hereby granted: TO ALLOW RETAIL USE, MAINLY A SHOE STORE, AT THE SUBJECT PREMISES

THIS VARIANCE IS SUBJECT TO THE FOLLOWING CONDITIONS

1. THIS VARIANCE SHALL EXPIRE IF WORK IS NOT INITIATED PURSUANT THERETO WITHIN TWO(2) YEARS FROM THE DATE OF THIS RESOLUTION;
2. A BUILDING PERMIT MUST BE OBTAINED FROM THE BUILDING INSPECTOR FOR ANY CONSTRUCTION RELATING TO THIS VARIANCE; A REVIEW FOR ALL OTHER STATE AND LOCAL CODES; AND SURVEYS OF THE PROPERTY SUBMITTED TO THE BUILDING INSPECTOR, ACCORDING TO HIS INSTRUCTIONS.

Motion by: GEORGE NAGLE, JR.  
Seconded by: KIM BAPTISTE

<u>MICHAEL ROSENBERG</u>	voting	<u>AYE</u>
<u>KIM BAPTISTE</u>		<u>AYE</u>
<u>CAROL MORAVEC-DEERY</u>		<u>AYE</u>
<u>GEORGE NAGLE, JR.</u>		<u>AYE</u>
<u>ROBERT SCHMIDT</u>		<u>AYE</u>

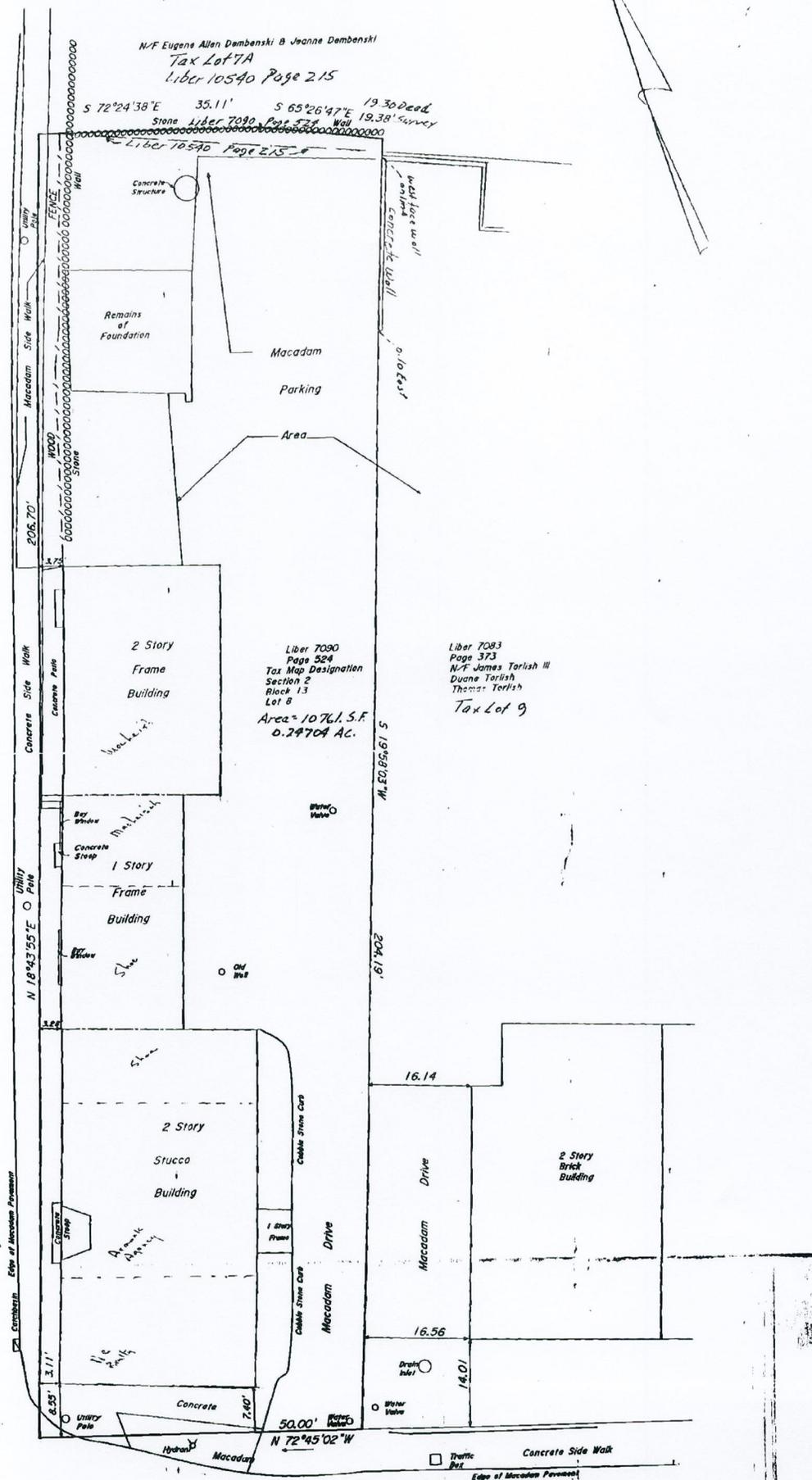
The Resolution is Granted by Order of the Board of Appeals

DATED: Dec 20 1996 Robert Schmidt  
Robert Schmidt, Chairman

I HEREBY CERTIFY this to be a true copy of a resolution approved by the vote of the Board of Appeals of the Town of North Castle at a meeting held on DECEMBER 5, 1996, at the Town Hall Annex, North Castle, New York.

Linda DiFiore  
Linda DiFiore, Secretary

ARMONK MT. KISCO STATE HIGHWAY



MAPLE AVENUE

# **Exhibit F**

**TOWN OF NORTH CASTLE  
ZONING BOARD OF APPEALS MEETING  
17 Bedford Road  
Armonk, New York 10504**

**December 5, 1996**

Zoning Board Members Present:           Chairman Robert Schmidt  
  George Nagle  
  Carol Moravec-Deery  
  Kim Baptiste  
  Michael Rosenberg

Town Counsel:                             Gerry Reilly, Esq.  
Recording Secretary:                     Joan Vetare

The meeting was called to order by Chairman Schmidt at 8:15 p.m.

**APPROVAL OF MINUTES - November 7, 1996**

Mr. Nagle made a motion to approve the Minutes, with no corrections. Mr. Rosenberg seconded the motion, which was adopted unanimously.

**DEAN, JOHN C. AND LOWERY, RICHARD B.  
423 Main Street, Armonk**

Section 2, Block 13, Lot 8

The Affidavit of Publication was read, for the record.

This application is for a variance for insufficient parking. A letter has been received from Leo Gustafson, the North Castle Building Inspector denying the application.

Francis O'Neill, Esq. represented the applicants. The applicants were also present.

Mr. O'Neill: We do not really need to belabor this application, since we recently had one exactly the same, for The Framings, which took the place of the delicatessen on the corner of Maple Avenue and Main Street. In this particular instance, we do not have sufficient parking for the operation. Prior to and similar to the delicatessen application, prior to the time we made this application, the premises in question were used as a Travel Agency. In that Travel Agency, we had as many as 8 desks. We anticipate in the shoe store that we would probably have no more than two employees. In addition to that, we would like to have a great flow of traffic in there, but we do not expect it. The proprietor is here.

Mr. Schmidt: Is it the corner building?

Mr. O'Neill: The whole building is all owned as one parcel, however, the property is several buildings. This is owned by MacLeish. There are two other establishments in that corner of the property. There is the Armonk Agency, and we have the North Castle Realty, both of whom are owners of these premises.

Town of North Castle Zoning Board of Appeals Meeting  
December 5, 1996

Mr. Schmidt: Part of this building, then, previously had how many employees, you said about 8?

Mr. O'Neill: We had as many as 8, at one time. What would be the new occupancy?

Mr. O'Neill: We anticipate two.

Mr. Schmidt: What is the status of the parking lot behind these buildings?

Mr. O'Neill: We have some parking back there, but it is totally inadequate to accommodate this building. You have four tenants in this building.

Mr. Schmidt: It is common parking for whoever happens to come there? Or is it only for the occupants of the building?

Mr. O'Neill: Anybody can park there. In practice, they really do not park there. The employees park there and the others park all over the place.

Mr. Schmidt: What is the status of the Parking Lot behind the Travel Agency?

Mr. O'Neill: It is one big driveway. The ownership is Torlish, Duane and Tom and they have parking in there. That was recently constructed and they had to comply with the off street parking in the Ordinance. This predates any Ordinance we had in Town.

Mr. Schmidt: How is the parking between these two areas controlled?

Mr. O'Neill: I think you will have to ask Mr. Lowery.

Mr. Lowery: It is an honor system. We do not park in their parking lot. We park behind the building.

Mr. Schmidt: How about customers?

Mr. Lowery: We would not try to control them. Nobody will say anything.

Mr. Nagle pointed out that the Bank had a parking lot where they could park and also the Library parking lot.

Mr. Nagle: What is the square footage of this store?

Mr. Lowery: It is about 800 square feet.

Mr. Nagle: Normally, you would require about four parking space.

Mr. O'Neill: We are required to have one parking space for every 200 sq. ft. Yes.

Mr. Schmidt: I see nothing here about how deficient are you, in other words? Has any application been made showing parking slots?

Town of North Castle Zoning Board of Appeals Meeting  
December 5, 1996

Mr. O'Neill: We are four short for the shoe store. For the entire building, there is an apartment upstairs. We have never received Site Plan Approval from the Planning Board, this is the first time this has ever come up.

Mr. Nagle: Isn't this preexisting, non-conforming? This building is extremely old.

Mr. O'Neill: Correct. I am here, because the Building Inspector has said we must be here. I am not sure that I agree that we must do this, because as you point out, we are a legal non-conforming use.

Mr. Lowery: The building is 150 years old.

Mr. Nagle: Was it commercially used the whole time?

Mr. Lowery: No. I don't think it became commercially used until sometime around the turn of the century.

Mr. O'Neill: There used to be a grocery store there. And a Post Office and a liquor store.

Mr. Nagle: Can you comment, Counsel, on the preexisting, non-conforming aspect.

Mr. Reilly: Without looking at the statute, in most zoning ordinances, the change of use, as they define it, you can lose your preexisting non-conformity. You can always change a non-conforming to a conforming. Usually you can change a nonconforming to a less non-conforming. So if you have a grocery store, and change it to a Travel Agency.

Mr. Nagle: But aren't we looking at this in a more generic way?

Mr. Reilly: You can't, because the statutes are not written generically that a non-conforming use continues when the property changes.

Mr. Nagle: So any change in the type of use, would --- (sentence not completed).

Mr. Reilly: I was not here for The Framing, but next month I will report on the question that Mr. O'Neill raised, of whether or not a variance is necessary when it is merely a change of tenants and the use is not a greater use than the prior non-conforming use. If this happened in North Salem, Mr. O'Neill would have to go to the Planning Board for site plan approval and the Zoning Board, because of the way their statute is written as to change of use. Where I am from in Irvington, it is the same. Once you change a non-conforming use, then you have lost the non-conforming.

Mr. Nagle: It would be nice for us to know that, because of the situation on Main Street.

Mr. Reilly: In any event, the Board should still consider the variance application.

Mr. Nagle: Could you address the issue of the benefit to the applicant, versus the parking problem downtown.

Town of North Castle Zoning Board of Appeals Meeting  
December 5, 1996

Mr. O'Neill: My position in this particular case, as it was in Framings, we are having a less intense use for these premises than we had for the Travel Agency. The big question here is that we do not have sufficient parking.

Mr. Nagle: Regardless of what you do, there is no parking. So how can you rent it without having parking?

Mr. O'Neill: My position is this. Let's assume for the sake of discussion that this Board says, no, I am not going to grant a variance. In fact, what you have done is to deprive these clients of the use of this property, without any compensation. The reason for that is that there is no parking that they can acquire. So it cannot conform. There is no law that I know of that says, now that you have changed the use, you have to reduce the size of the building. That is the position we are in here.

Mr. Rosenberg: There is always the possibility of permitting a less intensive use, even if we were to turn down this use. I think there is a question, and I think that it is a debatable proposition as to whether this is a less intense use than the Travel Agency. You said that there were as many as 8 employees, but certainly much of the activity of a Travel Agency can take place on the phone. The activity of a shoe store, necessarily involves people coming in and out all the time.

Mr. O'Neill: I would not argue that fact at all. I hope we will do a tremendous business here.

Mr. Rosenberg: I think we should proceed on that basis.

Mr. Nagle: The other part of that is that if you have a higher number of employees parking all day, versus people coming in for a half hour to an hour, then that is another use.

Mr. O'Neill: I told you that we hope that there would be a lot of traffic here, even in excess of the other use, but we do not know that.

Mr. Schmidt: My point in asking about the parking was, I don't see anything delineated and isn't this an opportunity to go and formally see how many cars can be accommodated and maybe put lines out so that people do not park helter skelter. I saw the MacLeish truck parked back there in any old way. I think it could be more efficient.

Mr. Lowery: There are no markings. There is one indentation in the building, which is for four cars. Then there are two cars parking next to the building and beyond that, you have doors that must be accessed. You have maybe eleven that you can call spaces.

Mr. Schmidt: If this had to go to the Planning Board, they would ask you to make a presentation of how many cars you can get in and so forth.

Mr. O'Neill: We do not have to do that here. We have to get a variance from the Zoning Board. If you want to make that a condition of your decision, we will have to mark out the parking spaces, but I think we will wind up with the same.

Mr. Nagle: What is the total square footage of the building?

Town of North Castle Zoning Board of Appeals Meeting  
December 5, 1996

Mr. O'Neill: It is a good size building. This is 800 square feet here. So you probably have double that over here and then you another piece here.

Mr. Nagle: Maybe about 5,000 square feet.

Mr. Rosenberg: Plus you have a second floor.

Mr. O'Neill: The second floor on the front is used for a commercial use. There is an apartment in the building over the proposed shoe store. You will need two spaces for the apartment. We have no parking spaces.

Mr. Schmidt: This is an opportunity to improve things. Where you have that old foundation in the back, is that an area that could be made into parking? As we have said many times, parking in town is real problem. I happened to be in town one day when I got one of the worst cases of a parking problem. All of Main Street had people waiting for people waiting for a parking space. The back parking lot was full. So we have problems at times that are really bad.

Mr. O'Neill: There are plans for two Parking Districts in Town. One of them is on the East side of Main Street, in back of Holmes Kennedy's office. And they had, and have had, a considerable plan for developing that property with a Parking District. You will recall that not too long ago, I was in here with an application on behalf of Hickory and Tweed. The Planning Board in granting Site Plan approval for the construction we wanted to do there, insisted that we become a part of the Parking District. And that was a part of the resolution here, or at least, it was from the standpoint of the Planning Board. That has been held up for years, as the result of the pollution in the ground. On the West side of Main Street, there has been a tremendous push to do something. Some of the present tenants don't want that and unless you get 55% in favor of a Parking District, we will not get a Parking District and it really comes down to money.

There were no neighbors present for this hearing.

Mr. Schmidt asked for further comments.

Mr. Nagle: I would like to make a motion. Because of the preexisting, non-conforming nature of this building, I think you have a very difficult situation and the benefit to the applicant clearly outweighs the detriment to the community parking laws. The variance is substantial, but that is somewhat ameliorated by the preexisting nature of the situation. Increased density is another problem, but it is ameliorated by the situation of the pre-existing, non-conforming. It will not substantially change the character of the neighborhood because this is what we have on Main Street already. I don't see that the difficulty can be alleviated in any other practical way. In view of the manner in which this arose over a period of time, I think the interest of justice is served by our granting the variance and I don't think it will have a substantial, adverse affect on the aesthetics, environmental aspects of the neighborhood.

Mr. Schmidt: Would you like to add to that, to actually delineate parking spaces?

Mr. Rosenberg: Sometimes when you try to do something like that, you wind up with a

Town of North Castle Zoning Board of Appeals Meeting  
December 5, 1996

legal difficulty. There is kind of a live and let live situation there.

Mr. Nagle: How does the rest of the Board feel about amending this to delineate the parking?

Mr. Rosenberg said that he was opposed.

Mr. Rosenberg: There is one aspect. In the motion, you should amend it to say that at least it would not appear that the intensity of use is not materially different from the previous occupant.

Mr. Nagle: I would say that it is very important to put that in the motion.

Mr. Schmidt: I will amend my suggestion that we delineate the parking areas.

Mr. Baptiste seconded the motion.

Vote: Mr. Rosenberg, Aye; Mr. Baptiste, Aye; Mrs. Deery, Aye; Mr. Nagle, Aye; Mr. Schmidt, Aye.

**FARERI BROTHERS**  
**18 Elizabeth Place, Armonk**  
Section 2, Block 2D, Lot 1G2

The Affidavit of Publication was read into the record.

This is from the decision of the Building Department. The principal question is permission to construct a wooden deck having an insufficient rear yard setback. All paper work is in order. A letter has been received from the Building Inspector, Leo Gustafson, rejecting the building permit.

Joseph Crocco, Architect for the applicant, was present to do the presentation. Chris and Paul Yaroscak were also present.

Mr. Crocco: This is a rather unusual lot. The lot is very long and narrow. Initially, when we designed the house and this house was designed for the site, the house was placed at the slightly wider portion of the buildable envelope, which would allow us some small, reasonable sized deck.

Mr. Nagle: What is the acreage of the lot?

Mr. Crocco: One acre.

Mr. Nagle: And it is one acre zoning?

Mr. Crocco: Yes, it is. It is not a non-conforming lot, for area purposes. We were at the point where we were going to start construction and the owners went out and began to dig and they realized that there was a massive amount of rock in this area, so they requested that we slide the house as far over as possible to avoid any additional excavation and blasting. The house has since been constructed and framed. We have a picture taken from

# **Exhibit G**

TOWN OF NORTH CASTLE  
17 BEDFORD ROAD  
ARMONK, N.Y. 10504

## CERTIFICATE OF COMPLIANCE

CC No: 50181

CC Date: 07/22/2004

SEC-BLK-LOT: 2/13/8.

ZONED: CB

Location: 430 MAIN STREET ARMONK, NY 10504

Building Permit No: 372

THIS CERTIFIES that the structure described herein, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Sign Permit dated: 11/01/2000, pursuant to which Sign Permit was issued, and conforms to all the requirements of the applicable provisions of the law.

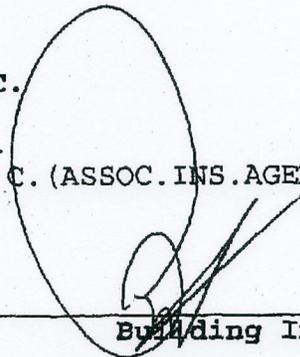
The sign for which this certificate is issued is as follows:

Sign Type: BUILDING

Remarks: NONE

WORDING: ASSOCIATED INSURANCE AGENCY, INC.

This certificate is issued to: DEAN, JOHN C. (ASSOC. INS. AGENCY, INC.)  
for the aforesaid structure.



Building Inspector

(The Certificate of Compliance will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Compliance).

# **Exhibit H**

# TOWN OF NORTH CASTLE

17 Bedford Road  
ARMONK, NEW YORK 10504

## BUILDING DEPARTMENT

### CERTIFICATE OF OCCUPANCY

Certificate of Occupancy # 00052082

CO Date: 2/23/2007

CO Fee:

SBL: 2/13/8

Zoned: CB

Location: 430 MAIN ST

Building Permit No.: 00013603

**THIS CERTIFIES** that the structure described herein, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated: 11/7/2003, pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law.

#### Description of Construction

COMM:TENANT SPACE - NEW RETAIL PHOTOGRAPHY STUDIO IN EXISTING RETAIL SPACE  
(FORMER SHOE STORE) NEW DRESSING ROOM

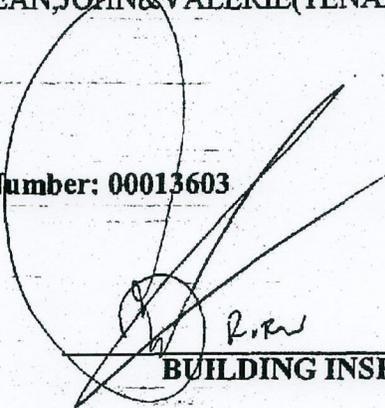
This certificate is issued to: DEAN, JOHN & VALERIE (TENANT JUNE GREENSPAN)

for the aforesaid structure.

Number of Bedrooms:

Pursuant to Building Permit Number: 00013603

Date Issued: 2/23/2007



**BUILDING INSPECTOR**

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy).

# **Exhibit I**



**Town of North Castle**  
17 Bedford Rd.  
Armonk, NEW YORK 10504

## CERTIFICATE OF COMPLIANCE

**Certificate No:** 2009-1138

**SBL:** 108.01-6-24

**Original SBL:** 2/13/8

**Location:** 430 MAIN ST

**Owner:** 428-436 MAIN STREET LLC

**Date of Issue:** 3/4/2009

**Zoned:** CB

**Building Permit No:** 2008-0558

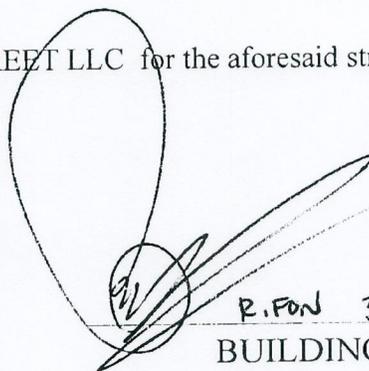
**Permit Issued:** 8/19/2008

THIS CERTIFIES that the structure described herein, conforms substantially to the approved plans and specifications heretofore filed in this office with the Building Permit, issued 8/19/2008, and conforms to all the requirements of the applicable provisions of the law.

**Description of Construction:**

SIGN ENTITLED "BEATA BUHL INTERIORS, INC"

This certificate is issued to: 428-436 MAIN STREET LLC for the aforesaid structure.



R. F. O'Neil  
3.5.09.

BUILDING INSPECTOR

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy.)



**TOWN OF NORTH CASTLE  
WESTCHESTER COUNTY  
17 Bedford Road  
Armonk, New York 10504-1898**

**PLANNING DEPARTMENT  
Adam R. Kaufman, AICP  
Director of Planning**

**Telephone: (914) 273-3542  
Fax: (914) 273-3554  
[www.northcastleny.com](http://www.northcastleny.com)**

## Application for Site Development Plan Approval

Application Name

428-436 Main Street, LLC

**I. IDENTIFICATION OF PROPERTY OWNER, APPLICANT AND PROFESSIONAL REPRESENTATIVES**

Name of Property Owner: <u>428-436 Main Street, LLC</u>
Mailing Address: <u>One New King Street, Harrison, NY 10604</u>
Telephone: <u>914-448-8300</u> Fax: _____ e-mail <u>chris@lordae.com</u>
Name of Applicant (if different): <u>Joseph C. Riina, P.E.</u>
Address of Applicant: <u>251-F Underhill Avenue, Yorktown Heights, NY 10598</u>
Telephone: <u>914-962-4488</u> Fax: <u>914-962-7386</u> e-mail <u>jriina@sitedesignconsultants.com</u>
Interest of Applicant, if other than Property Owner: <u>Project Engineer</u>
Is the Applicant (if different from the property owner) a Contract Vendee? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If yes, please submit affidavit stating such. If no, application cannot be reviewed by Planning Board
Name of Professional Preparing Site Plan: <u>Joseph C. Riina, P.E.</u>
Address: <u>251-F Underhill Avenue, Yorktown Heights, NY 10598</u>
Telephone: <u>914-962-4488</u> Fax: <u>914-962-7386</u> e-mail <u>jriina@sitedesignconsultants.com</u>
Name of Other Professional: _____
Address: _____
Telephone: _____ Fax: _____ e-mail _____
Name of Attorney (if any): <u>P. Daniel Hollis, III, Esq.</u>
Address: <u>55 Smith Avenue, Mt. Kisco, NY 10549</u>
Telephone: <u>914-666-5600</u> Fax: <u>914-666-6267</u> e-mail <u>pdhollis@hollislaidlaw.com</u>

**Applicant Acknowledgement**

By making this application, the undersigned Applicant agrees to permit Town officials and their designated representatives to conduct on-site inspections in connection with the review of this application.

The Applicant also agrees to pay all expenses for the cost of professional review services required for this application.

It is further acknowledged by the Applicant that all bills for the professional review services shall be mailed to the Applicant, unless the Town is notified in writing by the Applicant at the time of initial submission of the application that such mailings should be sent to a designated representative instead.

Signature of Applicant: \_\_\_\_\_

Date: 10.8.2021

Signature of Property Owner: \_\_\_\_\_

Date: 10.8.2021

**MUST HAVE BOTH SIGNATURES**

**II. IDENTIFICATION OF SUBJECT PROPERTY**

Street Address: 428-436 Main Street

Location (in relation to nearest intersecting street):

0 feet (north, south, east or west) of Maple Avenue

Abutting Street(s): Maple Avenue

Tax Map Designation (NEW): Section 108.01 Block 6 Lot 24

Tax Map Designation (OLD): Section 2 Block 13 Lot 8

Zoning District: CB Total Land Area 10,918 SF

Land Area in North Castle Only (if different) \_\_\_\_\_

Fire District(s) #3 School District(s) Byram Hills Central

Is any portion of subject property abutting or located within five hundred (500) feet of the following:

The boundary of any city, town or village?  
No  Yes (adjacent) \_\_\_\_\_ Yes (within 500 feet) \_\_\_\_\_  
If yes, please identify name(s): \_\_\_\_\_

The boundary of any existing or proposed County or State park or any other recreation area?  
No  Yes (adjacent) \_\_\_\_\_ Yes (within 500 feet) \_\_\_\_\_

The right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway?  
No \_\_\_\_\_ Yes (adjacent)  Yes (within 500 feet) \_\_\_\_\_

The existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines?  
No  Yes (adjacent) \_\_\_\_\_ Yes (within 500 feet) \_\_\_\_\_

The existing or proposed boundary of any county or State owned land on which a public building or institution is situated?  
No  Yes (adjacent) \_\_\_\_\_ Yes (within 500 feet) \_\_\_\_\_

The boundary of a farm operation located in an agricultural district?  
No  Yes (adjacent) \_\_\_\_\_ Yes (within 500 feet) \_\_\_\_\_

Does the Property Owner or Applicant have an interest in any abutting property?  
No  Yes \_\_\_\_\_

If yes, please identify the tax map designation of that property:  
\_\_\_\_\_

**III. DESCRIPTION OF PROPOSED DEVELOPMENT**

Proposed Use: Mixed Use Commercial - Residential

Gross Floor Area: Existing 2,968 S.F. Proposed -- S.F.

Proposed Floor Area Breakdown:

Retail 1,011 S.F.; Office 1,405 S.F.;

Industrial \_\_\_\_\_ S.F.; Institutional \_\_\_\_\_ S.F.;

Other Nonresidential \_\_\_\_\_ S.F.; Residential 552 S.F.;

Number of Dwelling Units: 1

Number of Parking Spaces: Existing 13 Required 20 Proposed (7 street paring)

Number of Loading Spaces: Existing 1 Required \_\_\_\_\_ Proposed \_\_\_\_\_

Earthwork Balance: Cut 0 C.Y. Fill 0 C.Y.

Will Development on the subject property involve any of the following:

Areas of special flood hazard? No X Yes \_\_\_\_\_

(If yes, application for a Development Permit pursuant to Chapter 177 of the North Castle Town Code may also be required)

Trees with a diameter at breast height (DBH) of 8" or greater?

No X Yes \_\_\_\_\_

(If yes, application for a Tree Removal Permit pursuant to Chapter 308 of the North Castle Town Code may also be required.)

Town-regulated wetlands? No X Yes \_\_\_\_\_

(If yes, application for a Town Wetlands Permit pursuant to Chapter 340 of the North Castle Town Code may also be required.)

State-regulated wetlands? No X Yes \_\_\_\_\_

(If yes, application for a State Wetlands Permit may also be required.)

#### IV. SUBMISSION REQUIREMENTS

The site development plan application package shall include all materials submitted in support of the application, including but not limited to the application form, plans, reports, letters and SEQR Environmental Assessment Form. **Submission of the following shall be required:**

- One (1) set of the site development plan application package (for distribution to the Town Planner for preliminary review purposes).
- Once a completed preliminary site plan checklist has been received from the Planning Department, eight (8) additional sets of the site development plan application package (for distribution to Planning Board, Town Engineer, Town Attorney, Town Planner, Planning Board Secretary, police, fire department and ambulance corps).
- One (1) additional reduced sized set (11" x 17") of the site development plan application package if any portion of the subject property abuts or is located within five hundred (500) feet of the features identified in Section II of this application form (for distribution to Westchester County Planning Board).
- A check for the required application fee and a check for the required Escrow Account, both made payable to "Town of North Castle" in the amount specified on the "Schedule of Application Fees."

(continued next page)



TOWN OF NORTH CASTLE  
WESTCHESTER COUNTY  
17 Bedford Road  
Armonk, New York 10504-1898

PLANNING DEPARTMENT  
Adam R. Kaufman, AICP  
Director of Planning

Telephone: (914) 273-3542  
Fax: (914) 273-3554  
[www.northcastleny.com](http://www.northcastleny.com)

**APPLICATIONS REQUIRING PLANNING BOARD APPROVAL**  
**SCHEDULE OF APPLICATION FEES**

<b><u>Type of Application</u></b>	<b><u>Application Fee</u></b>
Site Development Plan	\$200.00
Each proposed Parking Space	\$10
Special Use Permit (each)	\$200 (each)
Preliminary Subdivision Plat	\$300 1 <sup>st</sup> Lot \$200 (each additional lot)
Final Subdivision Plat	\$250 1 <sup>st</sup> Lot \$100 (each additional lot)
Tree Removal Permit	\$75
Wetlands Permit	\$50 (each)
Short Environmental Assessment Form	\$50
Long Environmental Assessment Form	\$100
Recreation Fee	\$10,000 Each Additional Lot
Discussion Fee	\$200.00
Prior to submission of a sketch or preliminary subdivision Plat, an applicant or an applicant's representative wishes to discuss a subdivision proposal to the Planning Board, a discussion fee of \$200.00 shall be submitted for each informal appearance before the board.	

\*Any amendment to previously approved applications requires new application forms and Fes\*



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**PLANNING BOARD SCHEDULE OF ESCROW ACCOUNT DEPOSITS**

<b><u>Type of Application Deposit*</u></b>	<b><u>Amount of Initial Escrow Account</u></b>
Concept Study	\$500.00
Site Plan Waiver for Change of Use	\$500.00
Site Development Plan for:	
Multifamily Developments	\$3,000.00 plus \$100.00 per proposed dwelling unit
Commercial Developments	\$3,000.00 plus \$50.00 for each required parking space
1 or 2 Family Projects	\$2,000.00
Special Use Permit	\$2,000.00 plus \$50.00 for each required parking space
Subdivision:	
Lot Line Change resulting in no new lots	\$1,500.00
All Others	\$3,000.00 plus \$200.00 per proposed new lot in excess of two (2)
Preparation or Review of Environmental Impact Statement	\$15,000.00

\* If a proposed action involves multiple approvals, a single escrow account will be established. The total amount of the initial deposit shall be the sum of the individual amounts indicated. When the balance in such escrow account is reduced to one-third (1/3) of its initial amount, the applicant shall deposit additional funds into such account to restore its balance to the amount of the initial deposit.

Applicant Signature

Date:

10.8.2021

## *Short Environmental Assessment Form*

### *Part 1 - Project Information*

#### Instructions for Completing

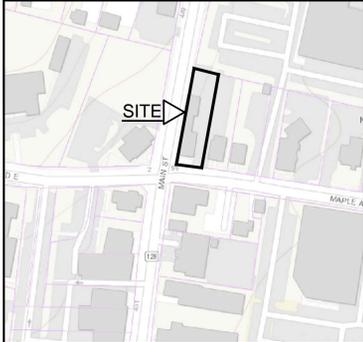
**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available.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

<b>Part 1 - Project and Sponsor Information</b>			
428-436 Main Street, LLC			
Name of Action or Project: 428-436 Main Street, LLC			
Project Location (describe, and attach a location map): 428-436 Main Street, Armonk, NY			
Brief Description of Proposed Action:  Amended Site Plan			
Name of Applicant or Sponsor: 428-436 Main Street, LLC / Chris Santomero		Telephone: 914-4488-8300	
		E-Mail: chris@lordae.com	
Address: One New King Street			
City/PO: Harrison		State: NY	Zip Code: 10604
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: North Castle Planning Board - Site Plan Approval			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		0.25	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?		0.25	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 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			







LOCATION MAP  
NOT TO SCALE

**SITE DATA:**  
 OWNER / DEVELOPER: 428-436 MAIN STREET  
 ONE NEW KING STREET  
 HARRISON, NY, 10504  
 PROJECT LOCATION: 428-436 MAIN STREET  
 ARMONK, NY, 10604  
 EXISTING TOWN ZONING: CB, CENTRAL BUSINESS  
 PROPOSED USE: CB, CENTRAL BUSINESS  
 TOWN TAX MAP DATA: SECTION 108.01, BLOCK 6, LOT 24  
 SITE AREA: 0.25 ACRES (10,918.0 SF)  
 SEWAGE FACILITIES: PUBLIC SEWERS  
 WATER FACILITIES: PUBLIC WATER FACILITIES  
 SCHOOL DISTRICT: BYRAM HILLS CENTRAL  
 FIRE DISTRICT: ARMONK

**PARKING SCHEDULE:**

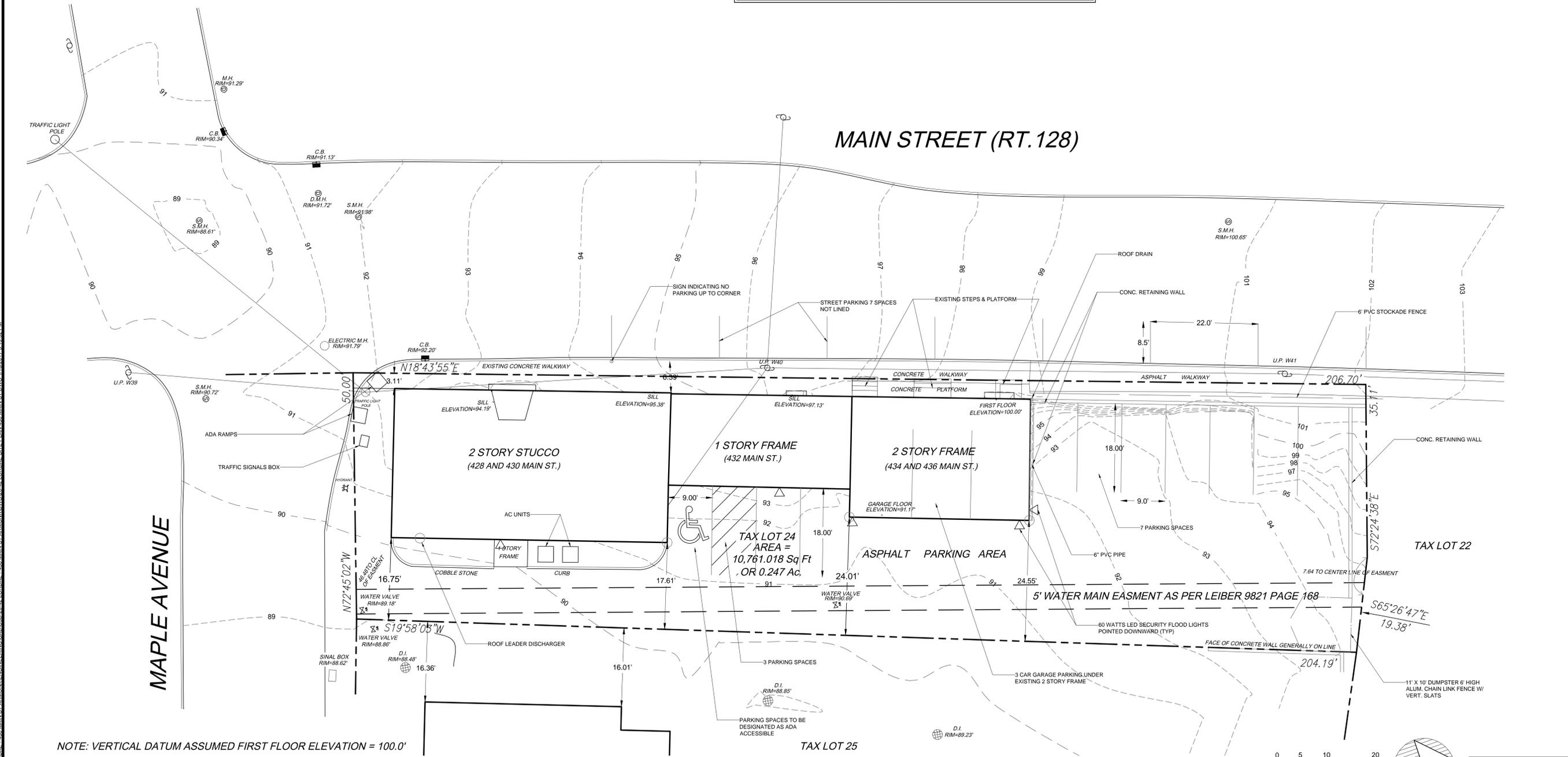
Address	S.F.	Building Type	Above Unit	Required Parking
428	552	Office	2 Bedroom apt.	552 S.F. @ 1 space/250 S.F. + 2 each dwelling = 4.21 spaces
428A	240	Office	N/A	240 S.F. @ 1 space/250 S.F. = 0.96 spaces
428B	230	Retail	N/A	230 S.F. @ 1 space/200 S.F. = 1.15 spaces
430	391	Retail	N/A	391 S.F. @ 1 space/200 S.F. = 1.955 spaces
432	390	Retail	N/A	390 S.F. @ 1 space/200 S.F. = 1.95 spaces
434 & 434A	1165	Office	3 Offices	2 x 1165 S.F. @ 1 space/250 S.F. = 9.32 spaces
Total Required				20 spaces
Total Existing				20 spaces (13 onsite, 7 street parking)

**ZONING SCHEDULE:**

ZONING DISTRICT:	CB, CENTRAL BUSINESS			
	AREA, YARD AND BUILDING REQUIREMENTS	REQUIRED	EXISTING	VARIANCE REQUIRED
MINIMUM LOT REQUIREMENTS				
LOT SIZE	5,000 SF.	10,918.0 SF.	NONE	
LOT FRONTAGE WIDTH	50 FT	256.7 FT	NONE	
LOT DEPTH	100 FT	50 FT	NONE	
SETBACK REQUIREMENTS				
FRONT/ WEST	10 FT	2' - 11"	0.1 FT (O.H.)	
FRONT/ SOUTH	10 FT	7' - 4"	4' - 4" (O.H.)	
SIDE/ NORTH	0 FT	71' - 11"	0 FEET	
REAR	30 FT	11' - 7"	NONE	
BULK REQUIREMENTS				
BUILDING	30 FT	14' - 4"	NONE	
HEIGHT	2 STORY	2 STORY	NONE	
F.A.R.	0.4	0.57	NONE	
	4,367.1	6,265 SF.	NONE	
MAXIMUM BUILDING COVERAGE	35%	31%	NONE	
	3,821.29	3,464 SF.	NONE	

Existing Town Zone CB-Central Business

Permitted Uses	Required Parking
Principle Uses:	
Retail or service businesses, not exceeding 5,000 square feet of floor area	1 for each 200 square feet of gross floor area
1 and 2 family dwellings	1 for each 200 square feet of gross floor area
Professional or business offices or studios (other than accessory to a residential use)	For uses with less than 75,000 square feet of gross floor area, 1 for each 250 square feet of floor area; for uses with 75,000 square feet or more of gross floor area, 1 for each 300 square feet of gross floor area, except in an OB District, where 0.9 per employee, but not less than 1 for each 350 square feet of gross floor area



MAIN STREET (RT.128)

MAPLE AVENUE

NOTE: VERTICAL DATUM ASSUMED FIRST FLOOR ELEVATION = 100.0'

NOTE: THIS IS NOT A SURVEY. ALL SURVEY INFORMATION SHOWN ON THIS PLAN HAS BEEN TAKEN FROM A SURVEY MAP PREPARED BY JOHN J. MULDOON, DATED 6/12/10. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.



**SAFE DIG**  
 Before You Dig, Drill or Blast!  
 Call 811 or visit www.call811.com  
 811 is a free service that connects you to the utility companies that have underground lines in your area. It's the best way to find out where they are and how deep they are. Call 811 at least 3 business days before you dig.

PROJECT # 20-42

**Site Design Consultants**  
 Civil Engineers • Land Planners  
 251-F Underhill Avenue, Yorktown Heights, NY 10598  
 (914) 962-4488 - Fax: (914) 962-7386  
 www.sitedesignconsultants.com

Engineer:

Revisions: 

No.	Date	Comments

SCALE: 1" = 10'  
 DRAWN BY: KM  
 DATE: 10/08/21

**AMENDED SITE PLAN**

PROPOSED SITE PLAN PREPARED FOR  
**428-436 MAIN STREET, LLC.**  
 428-436 MAIN STREET  
 Town of North Castle, Westchester County, NY

Sheet 1 of 1

UNAUTHORIZED ALTERATIONS OR ADDITIONS TO THIS DRAWING IS A VIOLATION OF SECTION 7209 (2) OF THE NEW YORK STATE EDUCATION LAW.