REVISED

ZONING BOARD OF APPEALS

JANUARY 11, 2016 7:30 P.M. TOWN HALL

1. SABATINI – Referral from the Planning Board
2. James & Melanie Matero – Variance for deck
3. Old Business/ New Business
4. Adjournment

ZONING BOARD OF APPEALS
JANUARY 11, 2016 7:30 TOWN HALL

1. Sabatini – Referral from the Planning Board.

2. Old Business/ New Business

3. Adjournment

APPEAL # _____ Tax Map # 60.-1-11

Final hearing date _____ **Zoning Board decision APPROVED / DENIED**

Date application submitted _____

Application Fee $ 100.00 Escrow Fee $ N.A. Received by _____

To the Zoning Board of Appeals, Town of Philipstown, New York:

I (we), John A. Sabatini & Kimberly J. Sabatini

residing at 101 Dick's Castle Road (Private) Garrison NY 10524

Telephone: home 914-475-8724 business -

HEREBY appeal the decision of (name and title) The Philipstown Planning Board

whereby he/she

GRANTED ___ DENIED ✓ a BUILDING PERMIT ___ a CERTIFICATE OF OCCUPANCY ___

For Site Plan Approval for an addition to existing single family residence, construction of pool and associated landscaping.

To John A. Sabatini & Kimberly J. Sabatini

of 101 Dick's Castle Road (Private) Garrison NY 10524

For property at tax map # 60.-1-11 in zoning district RR (Rural Residential)

WHEN FILLING OUT APPLICATION, ATTACH ADDITIONAL PAGES AS NECESSARY TO ANSWER QUESTIONS.

1. LOCATION OF PROPERTY: (Give 911 address and a map and detailed narrative giving directions to the property using road names, such as Route 9 or 9D, Old Albany Post Road, East Mountain Road South, etc. and landmarks such as Garrison School, North Highlands Fire House, Highlands Country Club, etc:

101 Dick's Castle Road (see attached map w/directions)

2. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS (Include those opposite on streets/highways. Use additional sheets if necessary. This information may be obtained in the Town Assessor's Office)

See Attached List

3. PROVISIONS OF ZONING CODE INVOLVED (give Article, Section, Sub-section, paragraph by number, Do not quote text of code)

175-36B(1), 175-36B(2), and 175-11B Dimensional Table - Maximum Lot Coverage

4. PREVIOUS APPEAL (if there have been any previous appeals for this property or any portion thereof, set forth the appeal number, date, relief sought and the ZBA decision resulting)

None

TYPE OF APPEAL:

- [ ] an INTERPRETATION of the Zoning Code or Maps
- [x] a VARIANCE from the Zoning Code
- [ ] a SPECIAL USE PERMIT under the Zoning Code

5. DETAILS OF APPEAL (Complete only that section which applies to the appeal you are submitting)

(a) INTERPRETATION of the Zoning Code is requested

(1) An exact statement of the interpretation requested is:

(b) a VARIANCE from the Zoning Code is requested:

(1) An exact statement of the details of the variance requested is:

Appellants were denied site plan approval because their plan is for construction, on land with slopes that exceed 20% [Sec. 175-36B(1)] and 35% [Sec. 175-36B(2)], that does not fit within the types of allowable construction listed in these sections.

Appellants' site plan will result in total impervious coverage that exceeds the maximum allowable impervious coverage listed in the Dimensional Table that forms part of Sec. 175-11B.

(2) The grounds on which this variance should be granted are:

Failure to grant the requested variances will deprive the appellants of reasonable use of their property.

(c) a SPECIAL USE PERMIT is requested

(1) The reason the permit is requested:

(2) An exact statement of use for which the permit is requested:

(3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of town code for granting of a special use permit.

PHILIPSTOWN ZONING BOARD OF APPEALS

SUPPLEMENTAL WORKSHEET FOR AREA VARIANCE APPLICANTS

In accordance with state law, the Zoning Board must grant or deny an area variance based on specified factors and a balancing of "the benefit to the Applicant" if the variance is granted, as weighed against the detriment to the health, safety We have developed this Supplement to assist you with preparing, and welfare of the neighborhood or community submitting and presenting your case to the Zoning Board. Please complete the factors 1 a - 5 below and submit with your application (attach additional pages if necessary). We have provided suggested questions which will assist you in answering each factor and in preparing for the Board's review. It is strongly suggested that you structure your presentation at the hearing in accordance with the factors. Provide facts and proof to support each factor.

FACTORS TO BE CONSIDERED BY THE BOARD

1 a. What possible detriment would the variance have on nearby properties? How close are nearby structures? Will your structure be visible to others or will it block a view? Do you propose exterior lights?

There will be no detriment to nearby properties. This is due in large part to the size of the subject parcel and its neighboring parcels. The nearest residence is located over 300' measured horizontally to the northeast of the Sabatini Residence. The next nearest residences are located 390' to the south, 460' to the west and 480' to the north. The proposed improvements are located on the north side of the Sabatini residence which will screen the view of the pool and patio area from the south. The proposed improvements will not be visible to others and they will not block a view. Exterior lights, suitable for outdoor residential uses (patio, pool, walkways) will be installed in a manner designed to minimized glare, sky glow and any other disturbance to neighboring properties.

1 b. What impacts would the variance have on the character of the neighborhood? Have others in the neighborhood received similar variances? Does the Neighborhood contain similar structures with similar setbacks/heights etc.? Is your property similar to or different from others in the area? If several of your neighbors were to receive variances in the future similar to the one you now request, would the neighborhood be changed?

For the reasons stated above, there will be little impact on the neighberhood if the requested variances are granted. Others in the neighborhood have not received similar variances. There are only 3 single family lots along Dick's Castle Road, making it a very small neighborhood. All three lots were developed under the previous zoning law. The average lot area is 6 acres. The Sabatini lot is the largest. It contains 7.1 acres. The lot to the north is improved with a house that has a modest footprint of about 1,500 sq. ft. It is more than 600 feet from the proposed improvements. The closer house is located to the south about 390 feet from the Sabatini Residence, it has a footprint of about 6,600 sq. ft. and the property is also improved with a tennis court, garage and swimming pool. The addition that the appellants are planning will bring the total footprint of their house to 4,300 sq. ft. It is unlikely that the owner of the southerly parcel would ever seek such a variance. If the owner of the northerly lot were to seek a variance, its impact would be minimal because of the distances between the houses.

2. If you didn't get the variance, how else could you build what you want or accomplish your goal? For example: different location or design; shorter fence; smaller deck; smaller overhang or addition?

The goal simply cannot be accomplished without a variance. Other locations on the lot have been investigated and are not suitable. The only large more nearly level area is occupied by the septic system that cannot be relocated onto the otherwise steeper slopes. While it is possible to reduce the size of the addition, its capacity to serve its intended purpose will be severely compromised. The pool is very modest in size, less than 1,000 sq. ft., and the patio is even smaller, about 650 square feet. The proximity of the pool and patio to the house is critical to their planned functions. Other locations in the immediate vicinity of the house are either unsuitable, would require more disturbance or would be more visible to the neighbors.

3. What is Code requirement you seek to vary? **The appellants seek relief from restriction on the type of construction that can be built on slopes greater than 20% and greater than 35%. The applicant also seeks relief from the limitation on the maximum amount of impervious surface that exist on a lot.**

How large of a variance do you seek? **The appellants seek to construct their plan on a total of approximately 5,100 square feet of restricted steep slopes as more fully enumerated on the Attachment 1 hereto. The appellants seek a variance of the amount of impervious surface from the allowable 10% to 12.5%.**

4. What impact or effect will the variance have on the current physical and environmental conditions in the area? Is there grading (or blasting) proposed? Will you be paving previously unpaved surfaces? Are you proposing to remove any vegetation? Are there wetlands or other watercourses on site? Will normal drainage patterns be affected? How close are the nearest wells and septic systems? Will the proposed use or activity produce emissions (noise or odors)? Will traffic be increased? Is the area considered scenic?

When the appellants construct their plan there will be clearing, grading and rock removal. Due to the proximity of the house, there is no plan to blast the rock in order to remove it. A total of approximately 25,000 square feet of land will be disturbed, including disturbance for the introduction of storm water treatment facilities. The area of paved surfaces will be increased. All disturbed areas will be restored and/or landscaped as the project progresses. Vegetation will be removed in those places where the improvements will be made. All other areas within the limits of disturbance will be restored. On site drainage patterns will be affected, but ultimately storm water leaving the property will take the same route as it takes today. With the exception of the on site well and septic system, all wells and septic systems are at least 200 feet from the proposed improvement. The proposed uses and activities that the improvements will facilitate will not produce any noxious emissions (noise or odors). Traffic will not be increased if the variances are granted and the project is constructed. The area is considered scenic, as is the entirety of Philipstown,

5. Is the variance requested as a result of a "self-created hardship? Was there a need for the variance when you purchased the property? How long ago did you purchase the property? Did you build the structure without a permit? Is the need for a variance as a result of someone's mistake? Describe.

The appellants have not created any hardship. They have built nothing on the property with or without a permit. They purchased the property in January of 2014. The need for the variance is not the result of any mistake and was not anticipated at the time of the purchase. The need for the variance became evident after the property was purchased, the Appellants moved into the house and realized that it does not fully meet their expectations or the needs of their family.

STATE OF NEW YORK, COUNTY OF PUTNAM

John A. Sabatini being duly sworn, says: I have read the foregoing appeal and papers attached; that the statements and representations made therein are true to the best of my knowledge and belief.

Signature of applicant or agent

Sworn before me this

26th day of December 20 15

Notary, Putnam County.

GLENNON J. WATSON
Notary Public, State of New York
No. 4755184
Qualified in Putnam County
Commission Expires March 30, 2019

SUBMISSION REQUIREMENTS: (1) For a VARIANCE or INTERPRETATION please submit (7) individual packets.
(2) For a SPECIAL USE PERMIT please submit (19) individual packets

Each packet containing one each of the below listed items. These items are very specific and MUST be complied with exactly

1. Completed appeal form
2. Deed to property
3. Denied application for Building Permit or Certificate of Occupancy
4. Building plans with ONE ORIGINAL professional seal and signature
5. Survey prepared by NYS licensed surveyor, showing all property lines, structures and dimensions to property lines. One survey with ORIGINAL professional seal and signature.
6. Certificates of Occupancy for any existing structures
7. Contour maps as required by conditions

Adjoiners List
For
John A. & Kimberly J. Sabatini

60.-1-12
Thomas J. Kavaler & Loretta A. Preska
100 Dicks Castle Road
Garrison, NY 10524

60.-1-13.5
George & Patricia Auger
Route 9D
Garrison, NY 10524

60.-1-10 & 60.-1-51.1
Nancy Olnick Spanu
61 Dicks Castle Road
Garrison, NY 10524

60.-1-42 & 43, 44
Daniel & Nancy Paduano
24 Quiet Acres Lane
Garrison, NY 10524

60.-1-13.4
Mark & Catherine Driscoll
28 Fine Place
Garrison, NY 10524

60.-1-13.6
Edward & Sandra Bohl
10 Fine Place
Garrison, NY 10524

238 Main St,
Cold Spring,
NY
10516-1401
101 Dicks
Castle Rd,
Garrison, NY
10524-4119
Route 301
Lane Gate Rd
Fair St
Bank St
Foundry Brook
Route 9D
Catskill Aqueduct
Old Albany Post Rd
Route 9
Nelson
Corners
Indian Brook Rd
Indian Brook
Avery Rd

YOUR TRIP TO:

101 Dicks Castle Rd, Garrison, NY 10524-4119

5 MIN | 2.3 MI

Trip time based on traffic conditions as of 2:22 PM on December 30, 2015. Current Traffic: Moderate

1. Start out going **northeast** on **Main St/NY-301** toward **Parsonage St**.

Then 0.29 miles 0.29 total miles

2. Turn **right** onto **Peekskill Rd/County Hwy-16**.

Peekskill Rd is just past Spring St.

Restaurant Five Five Two is on the left.

If you reach Nichol Ln you've gone a little too far.

Then 0.47 miles 0.76 total miles

3. Turn **left** onto **Route 9D/NY-9D**.

Then 1.26 miles 2.02 total miles

4. Turn **left** onto **Dicks Castle Rd**.

Dicks Castle Rd is 0.3 miles past Beverly Warren Rd.

If you are on Route 9D and reach Fine Pl you've gone about 0.3 miles too far.

Then 0.27 miles 2.29 total miles

5. **101 DICKS CASTLE RD** is on the **left**.

If you reach the end of Dicks Castle Rd you've gone about 0.3 miles too far.

Use of directions and maps is subject to our Terms of Use. We don't guarantee accuracy, route conditions or usability. You assume all risk of use.

Exerp from Draft Minutes:
November, 2015 Planning Board Meeting

John and Kimberly Sabatini – Amended site plan and special use permit – 101 Dicks Castle Road, Garrison, NY: Referral to ZBA

Mr. Kacur distributed copies of plans and explained that the one he emailed to the Board may not have showed it clearly – the dotted line, which is the existing slope.

Mr. Gainer said that the Board recently re-inspected the property because the initial walk-through during the summer did not have very significant detail identified on the gronnd as to where the development would be. He said that there were comments raised by the Board at the second site walk – this response to one of those comments from Ms. Conner, they sought to see some cross-sections to better nnderstand exactly how they were terracing into the hill. Mr. Gainer said that the Board had seen all the plans, but there are significant disturbances of slopes greater than twenty-five percent. So the applicant is attempting to address that comment. He said that there were other issues raised as well. Mr. Gainer said that there was a desire to better understand the extent of vegetation removals/tree removals that would occur. He said that the modified plans did soften up to re-engineer the lower access road they had been proposing. Mr. Gainer said that this specifically addresses the issue of cross-sections through the properties so the Board can better understand how the property would be terraced to how significant the cuts and fills would be.

Mr. Merante asked what the specific reason was for a referral to the ZBA.

Mr. Watson said that they may not propose development on land that's great than twenty percent, except by special use permit and the justification for the special use permit has to be that there's a trade-off on the environmental situation. He said that in other words you could allow it when they did this. There was an example where by allowing someone to build near the front of the property on maybe steeper slope and avoid building a driveway all the way to the back of the property – that was Grasso. Mr. Watson said that they have basically come up against that same issue. He said that they are not going to be able to give the Board a trade-off in that regard just because of the shape of the ground and as steep as it is entirely. So Mr. Watson said that he thought the Board's only choice was to tell them they're ineligible for approval and that is their ticket into the Zoning Board.

Mr. Gainer said that the specific code references 175-36B, paragraph 7, which has been identified in prior correspondence to the Board.

Mr. Kacur said that he thought it was primarily the impervious surface coverage exceeding ten percent. He said that was the main one that came up last time because of the calculations, because of the steep slopes, they had over ten percent impervious surface coverage. Mr. Kacur said that it was like 11.9.

Ms. Conner made a motion that the Planning Board refer the application to the Zoning Board of Appeals. Mr. Giachinta seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Peter Lewis	-	In favor
Neal Zuckerman	-	Absent

Dennis J Sant, County Clerk

Putnam County Office Building
40 Glenada Avenue, Room 100
Carmel, New York 10512

ACS-00000000328958-00000000685770-005

Endorsement Page

Document # 1500179 Drawer # 04 Recorded Date: 01/29/2014
Document Type:DEED Book 1942 Page 406 Recorded Time: 1:39:04 PM
Document Page Count: 5 Receipt # 1467

PRESENTER:
STEPHEN G. TOMANN, ESQ.
P.O. BOX 313
1705 ROUTE 9D
COLD SPRING,NY 10516

RETURN TO:
PAUL B. SUPPLE, ESQ.
5 CLIFF STREET
P.O. BOX 510
BEACON,NY 12508

PARTIES

GRANTOR
ESTATE OF PHILIP J. CERNIGLIA

GRANTEE
JOHN A. SABATINI

FEE DETAILS

Consideration: $1,126,600.00
1500179

DEED	5	45.00
TP-584	1	5.00
CULTURAL EDUCATION		15.00
RECORD MANAGEMENT		5.00
RP-5217 RESID/AGRIC		125.00
TRANSFER TAX		15,774.00
AMOUNT FOR THIS DOCUMENT:		15,969.00

RETT # 000001064

RESERVED FOR CERTIFICATION

THIS DOCUMENT WAS EXAMINED PURSUANT TO S315 REAL PROPERTY LAW

EXEMPTIONS

RESERVED FOR CLERKS NOTES

Dennis J Sant

DENNIS J. SANT
PUTNAM COUNTY CLERK

8005 Executor's Deed-Individual or Corporation (single sheet)

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

THIS INDENTURE, made the 16 day of January, in the year Two Thousand Fourteen

BETWEEN
JOAN R. CERNIGLIA, as Executrix under the Last Will and Testament of PHILIP J. CERNIGLIA, (Putnam County Surrogate's Court File No. 2013-122), residing at 101 Dick's Castle Road, Garrison, New York 10524;

party of the first part, and

JOHN A. SABATINI and KIMBERLY J. SABATINI, husband and wife, residing at 53 High View Road, Fishkill, New York 12524;

parties of the second part,

WITNESSETH, that the party of the first part, by virtue of the power and authority given in and by said last will and testament, and in consideration of ONE MILLION ONE HUDRED TWENTY-SIX THOUSAND SIX HUNDRED ($1,126,600.00) DOLLARS actual consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

AS TO A ONE-HALF INTEREST IN

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in TOWN OF PHILIPSTOWN, County of Putnam and State of New York, which is more particularly bounded and described on Schedule "A" which is attached hereto and made a part hereof.

BEING the one-half interest conveyed by Philip J. Cerniglia to Philip J. Cerniglia and Joan R. Cerniglia, as Trustees under the Qualified Personal Residence Trust of Philip J. Cerniglia, dated March 19, 2001, and recorded May 8, 2001, in Liber 1548 of Deeds at Page 319. The said Philip J. Cerniglia died on February 17, 2013, thereby terminating the Trust and passing the one-half interest to his estate.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.
AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same

Westcor Land Title Insurance Company

SCHEDULE A
(continued)
(Amended 1/14/14)

TITLE NO. RAD-20646WC

Description

ALL that certain plot, piece or parcel of land situate, lying and being in TOWN OF PHILIPSTOWN, County of Putnam and State of New York that is a portion of those lands designated as Lot 4 on that certain "Subdivision Plat prepared for River Company Partners...," which was filed in the Putnam County Clerk's Office on September 16, 1987 as Map No. 2259 that is bounded and described as follows:

BEGINNING at a point which is in the center of the cul-de-sac at the southerly terminus of the 50 foot wide private right-of-way leading southeasterly from Route 9D, which point is an angle in the line dividing Lot 4 from Lot 5 all as shown on said Filed Map No. 2259.

THENCE from the said point of beginning northwesterly along the center of the said 50 foot wide private right-of-way

N 41-00-00 W 83.47 feet

THENCE leaving the said 50 foot wide private right-of-way but still along the line dividing Lot 4 from Lot 5 as shown on said Filed Map No. 2259.

S 70-30-00 W 215.90 feet

to a point. Thence leaving the said division line and running along other lands of River Company Partners

N 8-50-00 E 706.53 feet

to a point at the line dividing Lot 3 from Lot 4 on said Filed Map No. 2259. Thence along the said division line and crossing the said 50 foot wide private right-of-way

S 81-10-00 E 99.87 feet

to a point on the easterly boundary of the said 50 foot wide right-of-way. Thence along the said easterly boundary line of said right-of-way and through Lot 4

S 8-50-00 W 70.00 feet

to a point. Thence leaving the said right-of-way but still through Lot 4 on said Filed Map No. 2259

S 85-08-33 E 75.00 feet and
N 50-00-00 E 99.00 feet

to another point on the aforementioned division line between Lot 3 and Lot 4 as shown on said Filed Map No. 2259. Thence along the said division line

N 85-08-33 E 141.49 feet

Westcor Land Title Insurance Company

SCHEDULE A
(continued)
(Amended 1/14/14)

TITLE NO. RAD-20646WC

to a point on the easterly boundary line of Lot 4 as shown on said Filed Map No. 2259. Thence southerly along the said easterly boundary line the following courses:

S 9-58-28 W 138.90 feet
S 8-43-34 E 401.54 feet
S 66-43-24 E 40.00 feet
S 2-37-46 W 257.82 feet and
N 74-01-32 W 44.55 feet

to a point at the southeasterly terminus of the line dividing Lot 4 from Lot 5 on said Filed Map No. 2259. Thence along the said line dividing Lot 4 from Lot 5

N 59-46-00 W 287.80 feet

to the center of the cul-de-sac at the southerly terminus of the aforementioned 50 foot wide private right-of-way leading southeasterly from Route 9D and the point or place of BEGINNING.

TOGETHER WITH AND SUBJECT TO a right-of-way in common with others over the aforementioned 50 foot wide private right-of-way leading southeasterly from Route 9D.

first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

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

IN PRESENCE OF:

JOAN R. CERNIGLIA, Executrix

STATE OF NEW YORK, COUNTY OF PUTNAM,) ss:

On the 9th day of January, in the year 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared **JOAN R. CERNIGLIA** personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STEPHEN G. TOMANN
Notary Public, State of New York
Qualified in Putnam County
Reg. No. 01TO4804470
My Commission Expires April 30, 20__

Executor's Deed

Title No. RAD-20646WC

JOAN R. CERNIGLIA, as Executrix under the Last Will & Testament of PHILIP J. CERNIGLIA,

TO

JOHN A. SABATINI and KIMBERLY J. SABATINI.

SECTION:
BLOCK:
LOT: Tax Map No. 60.-1-11
TOWN/COUNTY:

TOWN OF PHILIPSTOWN
COUNTY OF PUTNAM

RETURN BY MAIL TO:

PAUL B. SUPPLE, ESQ.
LYONS & SUPPLE, ESQS.
5 CLIFF STREET, PO BOX 510
BEACON NY 12508

FOR COUNTY USE ONLY

C1. SWIS Code 3,7,2,6,8,9

C2. Date Deed Recorded 1 / 29 / 14 (Month Day Year)

C3. Book 1,9,4,2 C4. Page 4,0,6

New York State Department of **Taxation and Finance**

Office of Real Property Tax Services

RP- 5217-PDF

Real Property Transfer Report (8/10)

PROPERTY INFORMATION

1. Property Location: 101 (* STREET NUMBER) DICK'S CASTLE ROAD (* STREET NAME)
PHILIPSTOWN (* CITY OR TOWN) N/A (VILLAGE) 10524 (* ZIP CODE)

2. Buyer Name: SABATINI (* LAST NAME/COMPANY) JOHN A. (FIRST NAME)
SABATINI (LAST NAME/COMPANY) KIMBERLY J. (FIRST NAME)

3. Tax Billing Address: Indicate where future Tax Bills are to be sent if other than buyer address(at bottom of form) (LAST NAME/COMPANY) (FIRST NAME)
(STREET NUMBER AND NAME) (CITY OR TOWN) (STATE) (ZIP CODE)

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR ☐ Part of a Parcel

(Only if Part of a Parcel) Check as they apply:
4A. Planning Board with Subdivision Authority Exists ☐
4B. Subdivision Approval was Required for Transfer ☐
4C. Parcel Approved for Subdivision with Map Provided ☐

5. Deed Property Size: (* FRONT FEET) X (* DEPTH) OR 3.55 (* ACRES)

6. Seller Name: Joan R Cerniglia Executor (* LAST NAME/COMPANY) EST.OF PHILIP J.CERNIGLIA (FIRST NAME)
(LAST NAME/COMPANY) (FIRST NAME)

*7. Select the description which most accurately describes the use of the property at the time of sale:
A. One Family Residential

Check the boxes below as they apply:
8. Ownership Type is Condominium ☐
9. New Construction on a Vacant Land ☐
10A. Property Located within an Agricultural District ☐
10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District ☐

SALE INFORMATION

11. Sale Contract Date 12/05/2013

*12. Date of Sale/Transfer 01/16/2014

*13. Full Sale Price 1,126,600.00

(Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) *Please round to the nearest whole dollar amount*

14. Indicate the value of personal property included in the sale .00

15. Check one or more of these conditions as applicable to transfer:
- ☐ A. Sale Between Relatives or Former Relatives
- ☐ B. Sale between Related Companies or Partners in Business
- ☐ C. One of the Buyers is also a Seller
- ☐ D. Buyer or Seller is Government Agency or Lending Institution
- ☒ E. Deed Type not Warranty or Bargain and Sale (Specify Below)
- ☐ F. Sale of Fractional or Less than Fee Interest (Specify Below)
- ☐ G. Significant Change in Property Between Taxable Status and Sale Dates
- ☐ H. Sale of Business is Included in Sale Price
- ☒ I. Other Unusual Factors Affecting Sale Price (Specify Below)
- ☐ J. None

*Comment(s) on Condition:
Executor's Deed - 1/2 interest conveyance

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken(YY) 13

*17. Total Assessed Value 353,150

*18. Property Class 210

*19. School District Name GARRISON

*20. Tax Map Identifier(s)/Roll identifier(s) (If more than four, attach sheet with additional identifier(s))
60.-1-11

CERTIFICATION

I Certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

SELLER SIGNATURE

Joan R Cerniglia 1-9-14
SELLER SIGNATURE DATE

John A Sabatini
BUYER SIGNATURE
X by X John Sabatini, Agent 1-16-14
BUYER SIGNATURE DATE

BUYER CONTACT INFORMATION

(Enter information for the buyer. Note: if buyer is LLC,society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual/responsible party who can answer questions regarding the transfer must be entered. Type or print clearly.)

SABATINI (* LAST NAME) JOHN A. (FIRST NAME)

(*AREA CODE) (*TELEPHONE NUMBER (Ex: 5550000))

101 (* STREET NUMBER) DICK'S CASTLE ROAD (* STREET NAME)

GARRISON (*CITY OR TOWN) NY (*STATE) 10524 (*ZIP CODE)

BUYER'S ATTORNEY

SUPPLE (LAST NAME) PAUL (FIRST NAME)

(845) (AREA CODE) 831-1234 (TELEPHONE NUMBER (Ex: 5550000))

JAN - 4 2016

APPEAL # 892 Tax Map

Final hearing date_____ Zoning Board decision APPROVED / DENIED

Date application submitted 1-4-16

Application fee $ 100 Escrow $ _____ Received by Cash MB Landofi

To the Zoning Board of Appeals, Town of Philipstown, New York:

I (we), James & Melanie Matero

residing at 32 Hudson River Ln. Garrison

Telephone: ~~home~~ cell 914-447-5121 business 845-265-9246

HEREBY appeal the decision of (name and title)_____

whereby he/she

GRANTED____ DENIED ✓ a BUILDING PERMIT____ a CERTIFICATE OF OCCUPANCY____

For_____

To_____

of_____

For property at tax map # 89.7-1-6 in zoning district _____

WHEN FILLING OUT APPLICATION, ATTACH ADDITIONAL PAGES AS NECESSARY TO ANSWER QUESTIONS.

1. LOCATION OF PROPERTY: (Give 911 address and a map and detailed narrative giving directions to the property using road names, such as Route 9 or 9D, Old Albany Post Road, East Mountain Road South, etc. and landmarks such as Garrison School, North Highlands Fire House, Highlands Country Club, etc:

   32 Hudson River Ln
   Garrison, NY 10524

   9D South → R on Manitou → cross tracks → L on Hudson River Ln

2. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS (Include those opposite on streets/highways. Use additional sheets if necessary. This information may be obtained in the Town assessor's office)

   Alphonso Romero
   34 Hudson River Ln.
   Garrison NY 10524

   Dorothea Lang
   36 Hudson River Ln.
   Garrison NY 10524

   Dana & Kevin Reymond
   30 & 28 Hudson River Ln
   Garrison NY 10524

3. [illegible] (give Article, Section, Sub-section, paragraph or number [illegible])

4. PREVIOUS APPEAL (If there have been any previous appeals for this property or any portion thereof, set forth the appeal number, date, relief sought and the ZBA decision resulting):

October 7, 1996 - variance for deck - granted

TYPE OF APPEAL:

_____ an INTERPRETATION of the Zoning Code or Maps

✓ a VARIANCE from the Zoning Code

_____ a SPECIAL USE PERMIT under the Zoning Code

5. DETAILS OF APPEAL (Complete only that section which applies to the appeal you are submitting)

(a) INTERPRETATION of the Zoning Code is requested

(1) An exact statement of the interpretation requested is:

(b) a VARIANCE from the Zoning Code is requested:

(1) An exact statement of the details of the variance requested is: We request a variance to raise the roof to allow for above ground storage and to move mechanicals above flood levels. Additionally we request to add minor bump outs in 3 areas to slightly extend space without modifying foundation, again for the purpose of relocating mechanicals and equipment (ie washer/dryer) above ground and away from flood risk. Please see plans for specifics.

(2) The grounds on which this variance should be granted are: We were severely impacted by Super Storm Sandy and need to make these changes to better protect our home from future floods.

(c) a SPECIAL USE PERMIT is requested:

(1) The reason the permit is requested:

(2) An exact statement of use for which the permit is requested:

(3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of the code for granting of a special use permit:

STATE OF NEVADA COUNTY OF CLARK JAMES and MELANIE MATERO

being duly sworn, says I have read the foregoing appeal and papers attached; that the statements and representations made therein are true to the best of my knowledge and belief

Signature of applicant or agent

Sworn before me this 04th day of JANUARY 2016

Notary MARIANA ASSAF County CLARK

MARIANA ASSAF
NOTARY PUBLIC
STATE OF NEVADA
My Commission Expires: 7-6-2019
Certificate No: 15-2456-1

SUBMISSION REQUIREMENTS: (1) For a VARIANCE or INTERPRETATION please submit (7) individual packets
(2) For a SPECIAL USE PERMIT please submit (19) individual packets

each packet containing one each of the below listed items. These items are very specific and MUST be complied with exactly

1. Completed appeal form
2. Deed to property
3. Denied application for Building Permit or Certificate of Occupancy
4. Building plans with ONE ORIGINAL professional seal and signature
5. Survey prepared by NYS licensed surveyor, showing all property lines, structures and dimensions to property lines. One survey with ORIGINAL professional seal and signature
6. Certificates of Occupancy for any existing structures
7. Contour maps as required by conditions

[illegible] ZONING BOARD OF APPEALS
SUPPLEMENTAL [illegible] FOR AREA VARIANCE APPLICANTS

In accordance with state law, the Zoning Board must grant or deny an area variance based on specified factors and a balancing of "the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community". We have developed this Supplement to assist you with preparing, submitting and presenting your case to the Zoning Board. Please complete the factors 1a – 5 below and submit with your application (attach additional pages if necessary). We have provided suggested questions which will assist you in answering each factor and in preparing for the Board's review. It is strongly suggested that you structure your presentation at the hearing in accordance with the factors. Provide facts and proof to support each factor.

FACTORS TO BE CONSIDERD BY THE BOARD

1a. What possible detriment would the variance have on nearby properties?
How close are nearby structures? – Will your structure be visible to others or will it block a view? – Do you propose exterior lights?

~~the~~ Our project will not adversely affect neighborhood. No river view or mountain views will be impacted. We are only going up - not out. We will improve real estate values and protect ourselves from potential flooding.

1b. What impacts would the variance have on the character of the neighborhood?
Have others in the neighborhood received similar variances? – Does the Neighborhood contain similar structures with similar setbacks/heights etc.?
Is your property similar to or different from others in the area? – If several of your neighbors were to receive variances in the future similar to the one you now request would the neighborhood be changed?

Every home on this road requires similar variances for improvements. Our property is similar to all others. Our home is one of the last unimproved homes. We are doing less than others have - not changing footprint. We are only looking to add attic storage to buffer from flooding

2. If you didn't get the variance, how else could you build what you want or accomplish your goal?
For example: different location or design; shorter fence; smaller deck; smaller overhang or addition?

We can not accomplish our goals any other way.

3. What is Code requirement you seek to vary? _____

How large of a variance do you seek? _____

4. What impact or effect will the variance have on the current physical and environmental conditions in the area? – Is there grading (or blasting) proposed? – Will you be paving previously unpaved surfaces? – Are you proposing to remove any vegetation? – Are there wetlands or other watercourses on site? – Will normal drainage patterns be affected? – How close are the nearest wells and septic systems? – Will the proposed use or activity produce emissions (noise or odors)? – Will traffic be increased? – Is the area considered scenic?

We will not impact the environment. No paving. No vegetation will be removed. No wetlands impacted. Wells & septic remain unchanged. No additional noise, traffic or emissions.

5. Is the variance requested as a result of a "self-created hardship"? Was there a need for the variance when you purchased the property? – How long ago did you purchase the property? – Did you build the structure without a permit? Is the need for a variance as a result of someone's mistake? Describe

This variance is requested as homes were built close together and current code does not support any modifications

Town of Philipstown

Code Enforcement Office
238 Main Street, PO Box 155
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

James & Melanie Matero
32 Hudson River Lane
Garrison, NY 10524

January 5, 2016

RE: Building Permit – Exterior Alteration
ID# 89.7-1-6

Mr. Vogel,

A review of your building permit application shows the scope of work for the raising of the roof and creating an attic storage area, exterior and interior alterations and extension of the existing rear and side deck. The property is located along the Hudson River and is in a Special Flood Hazard Zone. The proposed work will come into more compliance with the Town of Philipstown Flood Damage Prevention Law, Chapter 90.

Please be advised that on October 7, 1996 a variance was issued by the Zoning Board Appeals under Appeal number 566 for the encroachment into the setback of the side and rear deck, with conditions; Conditions of the variance, #1 states,

> "No further enlargement or reconfiguration of the structure is authorized without a Building Department and/or Zoning Board approval as needed"

The proposed alteration and addition to the rear and side deck will enlarge and reconfigure the existing decks and require a variance from the Zoning Board of Appeals.

Further be advised that the Town of Philipstown Zoning Law Chapter 175-26 A. states the a lot of 40,000 square feet or less, the minimum side and rear setbacks shall be 20 feet for the principal building.

Your building permit application is **hereby denied** for non-compliance with section 175-11 B. of the Code of the Town of Philipstown, Zoning for side yard setback requirements.

IF YOU ARE AGRIEVED BY THIS DECISION you may submit an application to the Zoning Board of Appeals, pursuant to the provisions of Chapter 175-5 of the Code of the Town of Philipstown, to appeals from and review any order, requirement, decision or determination made by the CODE ENFORCEMNET OFFICER within sixty (60) days of the date on this letter.

Kevin Donohue

Kevin Donohue, CFM
Code Enforcement Officer

RE: DECISION AND FINDINGS OF THE
PHILIPSTOWN ZONING BOARD OF APPEALS
Appeal #566; Applicant: John Sparacio
Area Variance

Date: October 7, 1996

The Philipstown Zoning Board of Appeals conducted a Public Hearing on September 9 and September 16, 1996 to hear the appeal of John Sparacio from the denial of a building permit/certificate of occupancy for an existing deck having insufficient side setbacks. The property is located on Manitou Station Road, Garrison in the Town of Philipstown, Putnam County, New York.

At a public meeting of the Board on October 7, 1996, upon all the discussion that preceded it, including the public hearings, site visits undertaken by individual Board Members, and a review of Applicant's submissions, Anne Nichter made the following motion, seconded by Leonard Lim:

BE IT RESOLVED by the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, as follows:

> **THAT THE BALANCING OF EQUITIES WEIGHS IN FAVOR OF GRANTING THE APPEAL OF JOHN SPARACIO FROM A DENIAL OF A BUILDING PERMIT/CERTIFICATE OF OCCUPANCY BY THE BUILDING INSPECTOR FOR AN EXISTING DECK HAVING INSUFFICIENT SETBACKS, WITH THE FOLLOWING CONDITIONS[1], FOR THE REASONS HEREIN STATED, WHICH REASONS ALSO CONSTITUTE FINDINGS BASED ON THE FACTORS SET FORTH IN TOWN LAW 267-b.**

FINDINGS OF FACT:

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[1] Town Law §267-b(4) specifically authorizes the Zoning Board of Appeals "to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property."

1. The Applicant made this appeal (#566), dated June 11, 1996, to the Philipstown Zoning Board for an area variance based upon a denial of a building permit/certificate of occupancy by the Building Inspector for an existing deck having insufficient setbacks. Applicants' exhibits, including those filed with the Appeal or offered at the public hearing were reviewed by the Zoning Board. A composite list of the Exhibits is attached as **Schedule "A"**.

2. The property, a 15,850 sq. ft. parcel on Manitou Station Road, is located in an R-80 District in the Town of Philipstown, New York. According to Schedule B of the Philipstown Zoning Code, the R-80 District requires a setback of 30 feet from side or rear property lines.

3. The Applicant acquired title by a deed dated February 5, 1982. The structures at the property, appear on a map dated July 9, 1996 as prepared for Frank J. and John Sparacio by Badey & Watson Land Surveying & Engineering in Cold Spring, New York.

4. The Board initially reviewed the Application materials at its regular monthly meeting/work session on July 1, 1996 in order to determine sufficiency as a pre-requisite to scheduling a public hearing on the appeal. The application had been filed without a professionally executed map clearly indicating setbacks and the current configuration of all structures on the premises. The survey was subsdequently received and reviewed. The Board determined the Application "substantially complete". A properly noticed public hearing was scheduled for September 9, 1996. The public hearing was properly noticed in accordance with statutory mandates. A copy of the public hearing notice is attached as **Schedule "B"**.

5. The Board met on September 9, 1996 for the purpose of conducting the public hearing. The Board Members, the Applicant, and members of the public attended the hearing. The public hearing was duly conducted and closed. The Board engaged in further deliberations and a motion was entertained to <u>grant</u> the requested variance with certain conditions.

<u>CONDITIONS OF THE VARIANCE:</u>

1. The structures granted conditional variances by this decision shall not be further enlarged except in accordance with all provisions of the Philipstown Code and shall remain in the configuration as shown on

Applicant's maps and plans. No further enlargement or reconfiguration of the structures is authorized without Building Department and/or Zoning Board approval as needed.

2. The setback from the side yard for the existing deck on the north side shall not be less than 6.2 feet (a variance of 23.8 ft.).

3 The setback from the side yard for the existing deck on the south side shall not be less than 10.5 feet (a variance of 19.5 ft.).

4. The existing deck shall not be further enclosed, screened, covered or converted into living space, with either permanent or removable building materials, including but not limited to wood, canvas, metal, plastic or asphalt shingles.

FINDINGS AND CONCLUSIONS:

Adverse Effects on the Neighborhood

1. However, the requested variance will not adversely affect property values because the majority of the surrounding houses have decks attached to their property. The structure does not interfere with the enjoyment of the neighboring dwellings. Given the local topography and buffering, as well as the proximity of other structures in the neighborhood, the structure will not be obtrusive.

Some members of the public attended the hearing. Mr. & Mrs. Bracke, neighbors to the south, spoke out at the Hearing and felt that as long as the deck was built to Code specifications, they would not mind the Sparacios being allowed to have the deck. Opinions of neighboring property owners, whether supportive or in opposition, are welcomed but are not dispositive of the question of whether the neighborhood will be adversely affected. As always, the Board made an independent judgment of the impact of the requested variance on the neighborhood.

Feasible Alternatives

2. Due to the fact that the property is located in an R-80 District and given the size of the lot, a deck would be in conflict with the Philipstown Code. Although there is an intrusion into the setback, denial of the variance would cause more hardship to the Applicant than benefit to the neighborhood or Town.

Extent of Variance

3. The Applicants request a variance of 19.5 feet from a setback which should be 30 feet on the south side and a variance of 23.8 feet from a setback which should be 30 feet on the northerly side. The reduction to the required setback is substantial however, due to the location of the property in an R-80 District, any deck that would be built on this lot would require a variance..

Effects on Physical/Environmental Conditions

4. The proposed variance would not have an adverse impact on the more traditional "environmental" conditions in the neighborhood. The construction of a deck is not an activity usually associated with such environmental concerns. No additional traffic was generated. Air quality is not disturbed. Water quality or quantity was not affected. Additionally, no increase in runoff or change in the drainage has been experienced. The physical conditions in the neighborhood are discussed, as noted in item 1, above. As noted above, the structure will have very little effect on the physical conditions in the neighborhood.

Self-created Hardship

5. The need for this variance is self created[2]. The Applicant bought the house with the deck and wishes to make application to the Building Department for permits. The Applicant had been notified of the need for a variance.

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[2] While self-created hardship is not alone a reason to deny an area variance, it is a factor to be considered.

THE BALANCING TEST:

Based upon the above findings, and taking into consideration the benefit to the Applicant if the variance was granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community, the Board finds that the balance weighs in favor of granting the variance with conditions.

THE ROLL CALL VOTE:

The question of the foregoing resolution calling for granting the requested variance with conditions was put to a vote on roll call on the 7th day of October 1996, the results were as follows:

Robert Bengis, Chairman	Voting for granting the variance
Victor Carlson, Member	Voting for granting the variance
Leonard Lim, Member	Voting for granting the variance
Ann Nichter, Member	Voting for granting the variance
Joan Turner, Member	Voting for granting the variance

Robert Bengis, Chairman

ATTENTION APPLICANTS

FURTHER COMPLIANCE WITH THE PHILIPSTOWN ZONING CODE REMAINS ENTIRELY YOUR RESPONSIBILITY. A VARIANCE IS NOT THE EQUIVALENT OF A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY. ALL NECESSARY PERMITS MUST BE SECURED THROUGH THE PHILIPSTOWN BUILDING DEPARTMENT. PLEASE SEEK THE ADVICE OF THE BUILDING DEPARTMENT FOR YOUR PARTICULAR CIRCUMSTANCES.

Chapter 175. Zoning

Article VI. Nonconforming Uses, Structures and Lots

§ 175-26. Lots.

Nothing in this chapter shall prevent the use of a nonconforming lot or the construction, enlargement, extension, or structural alteration of a building or other structure on such a lot, as defined in § **175-74**, provided that all of the following standards and conditions are satisfied:

A. The use, building, or other structure conforms to all other requirements of this chapter, except that: 1) in the case of lots of 40,000 square feet or less, the minimum side and rear setbacks shall be 20 feet for the principal building and five feet for accessory structures up to 150 square feet; and 2) in the case of lots between 40,000 square feet and three acres, the minimum side and rear setback for the principal building shall be 30 feet;

B. If used for a dwelling, the lot contains a minimum area of 5,000 square feet;

C. If the lot was nonconforming prior to May 5, 2011, the lot owner does not own sufficient contiguous land to make a conforming lot under the Zoning Law as it existed immediately prior to the adoption of this chapter, pursuant to § 175-88C of such prior law;[1] and

[1] *Editor's Note: Former § 175-88C of the prior zoning law stated "The owner of the lot shall not own sufficient contiguous land to make a conforming lot."*

D. The lot has access to a Town, county, or state highway, or to a private road or open development area common driveway that meets applicable Town specifications.