

**ZONING BOARD OF APPEALS
Via Zoom
November 9th, 2020
7:30 P.M.
Regular Monthly Meeting**

**Pledge of Allegiance
Approval of Minutes:**

October

Correspondence:

Old Business:

Public Hearing:

New Business:

Tony & Kim Ricci, 3315 Route 9, Cold Spring, New York **TM#16.20-1-8**
(applicant seeks to convert existing 2nd floor storage to a one-bedroom apartment)

Lakeisha Esau & Martin Friedman, 66 Highland Dr, Garrison, NY **TM#90.8-2-41**
The proposed scope of work consists of a 2nd floor on the existing 1st floor exterior walls and the extension of decks to the side and rear on new posts and piers

*****NOTE: All items may not be called. Items may not always be called in order *****

ZONING BOARD OF APPEALS

October 19th, 2020

Minutes

The Zoning Board of Appeals for the Town of Philipstown held a monthly meeting on Monday, October 19th, 2020, Via Zoom

PRESENT: Robert Dee – Chairman
Vincent Cestone – Member
Paula Clair – Member
Lenny lim - Member
Adam Rodd – Attorney (Drake Loeb PLLC)

Absent: Granite Frisenda – Member

****PLEASE NOTE that these minutes were abstracted in summary from being present at the meeting and sound recording. If anyone should seek further clarification, please review the sound recording.**

Chairman Robert Dee opened the meeting at 7:30 p.m.

Minutes

Chairman Robert Dee: Alright, last month's minutes, does anybody have any changes? Corrections?

Paula Clair: Well, there is a couple of little typo's, I think.

Chairman Robert Dee: Okay

Paula Clair: But other, substantively it's okay.

Chairman Robert Dee: Okay, alright. So, make a motion that the minutes be accepted

Paula Clair: Yeah, I move

Chairman Robert Dee: Paula second, all in favor?

Vinny Cestone: Aye

Paula Clair: Aye

Lenny Lim: Aye

Chairman Robert Dee: Aye, okay first thing of business, William & Laura Cumming, 71 South Mountain Pass Spur Road. Its application is subdivision lot one area for 10 acres to 4.296 acres and a variance of 5.704 acres that's the subdivision lot 2 lot frontage from 300 feet to approximately 165.0 feet. So, I'm going to ask Glenn Watson you're there Glenn?

Paula Clair: Yeah, he is there

Glenn Watson: I'm here

Chairman Robert Dee: Okay, I know you went over this last time, but this is a public hearing so I want to explain it again.

Glenn Watson: Sure, Can I share my screen?

Chairman Robert Dee: Sure

Glenn Watson: Not let me just figure out how to do that, I'll di it in a second.

Chairman Robert Dee: Yeah, okay

Glenn Watson: That's me too. Okay you should see out map

Chairman Robert Dee: Yeah, I got I know, we're good

Glenn Watson: Okay, what we have is two pieces of property, one is owned by Mr. and Mrs. Cumming and the other is owned by Mrs. Cumming I believe. At any rate what we're hoping you will give us is the variance to so is allow us to subdivide this property so that there, I should have said to begin with there are two houses on this piece property.

Chairman Robert Dee: Okay

Glenn Watson: Okay, and they're actually on this on this green parcel which is their original parcel there are two houses. They were built some time ago I think in the 70's. The first one built in the 90's the second was built and that parcel has about 11.2 acres the way it exists now, the way you see it in this teal or green bluish green color. They since acquired the yellow piece that I'm showing you here to give them a total of 17 acres. Now as I started to say and I didn't finish there are two houses on the original teal colored property. This house right here that is closer to the road and a house further back from the road.

Chairman Robert Dee: Okay

Glenn Watson: That's now a non-conforming lot because of the two houses. It's conforming as to size it conforms as to frontage. The other lot which they purchased subsequent is a smaller lot it is landlocked it was sort of a leftover piece in Mrs. Webbs estate which Mr. Kulleseid had for a while and has since conveyed to I believe to Mrs. Cumming.

Chairman Robert Dee: Okay

Glenn Watson: So, we have a total of 12.8 acres and what we're hoping you will allow us to do is take this red portion out of the green or the blue I guess it is

Adam Rodd: Call it teal

Chairman Robert Dee: Teal

Adam Rodd: Good

Glenn Watson: And combine it with the yellow so that we end up with a 4.2-acre parcel in the teal and a 12.2-acre parcel in the yellow.

Chairman Robert Dee: Okay

Glenn Watson: That gives us some conformance problems. First of all, we're taking a conforming lot of 11 acres and we're asking for a reduction in its required area of 10 acres down to 4.3 acres but, we're compensation for that by making lot 2 for from 2.8 to 12.8.

Chairman Robert Dee: Okay

Glenn Watson: We have, I will correct our application. We have a total of 583 lineal feet of frontage on the South Mountain pass Spur which is a private road. We are seeking to draw a division line such that it goes down the middle of a common driveway to the point where they split off and put our frontage there which gives us frontage of two different frontages three, I'm just checking my numbers 395 feet which is 95 feet more than is required on the front parcel of the smaller parcel and 187 feet on the larger or rear parcel. Obviously, we could make the 187 get bigger by the 93 feet and come closer to make it conforming and that's one option that we considered but, that would have to happen at a further reduction of the area of the smaller parcel. So, we're really seeking two variances one on parcel one we're seeking a variance to make it smaller down to the four plus acres that I mentioned and we're seeking to a variance to make parcel two have less than a frontage so we're actually making it less non-conforming by giving it some frontage we're making it less non-conforming by bringing its area over the required minimum and we're making the teal parcel that's getting smaller so, we're seeking a variance in the area for the teal parcel. We're seeking I guess, it's a variance to allow this to have less than the required minimum, not quite but that's what we applied for in my head I'm not quite thinking about that correctly. We actually removing one shifting one conforming situation making reducing one non-conformity and we

are putting two houses on separate lots which is also in technically removing a non-conformity that's really our whole story about what we're seeking to do. I'd be happy to answer any questions and address any concerns you might have.

Chairman Robert Dee: Well, you're looking for two variances basically.

Glenn Watson: Yes, the way we phrase it's two variances we're looking for a reduction of the area of lot one and we're looking for lot two to which doesn't have any frontage if we're looking to allow it to be have less than the required frontage. Yes, maybe that wasn't really a variance and that I'm thinking about it because we're making less non-conforming.

Chairman Robert Dee: Right

Adam Rodd: Just so I'm clear on the numbers. The parcel what's been described as parcel two, that will have road frontage of 187

Glenn Watson: It's 187.9 feet

Adam Rodd: So, with the lot line change the road frontage will be 187.9 feet for parcel two?

Glenn Watson: that's correct

Adam Rodd: Okay

Chairman Robert Dee: Okay, anybody have, any questions from the Board Members? Anybody have any questions? Alright, is there anybody it's a public hearing, anybody in the audience Kelly who would like to speak on this?

Kelly MacIntyre: No there is nobody, no just Laura Cummings and Katrina but, nobody for them.

Chairman Robert Dee: Do they want to speak on it? Either of them or no?

Kelly MacIntyre: Laura wants to speak, I'm gonna let her in

Chairman Robert Dee: Alright, hello

Kelly MacIntyre: Laura are you there? Laura!

Glenn Watson: It may take a while; I think she is in Hong Kong

Laura Cummings: Sorry, can you hear me?

Kelly MacIntyre: Yes

Laura Cumming: And you can see me, yeah great thank you very much. Glenn did a great job so; I don't have much to add I just thought I'd maybe clarify two points. One is just in terms of the original house that was built on the property it was 1991 so, that was the first house and the property was owned in our family though since 1970. two in

terms of the second parcel that we acquired from Lars Kulleseid said that does have an HHLT Hudson Highland Land Trust easement on it just thought I'd put that in for the record since keeping that area preserved is an important part of at least our objectives and values, and three I think just to be clear on parcel two it goes from I think the numbers I may have heard Glenn incorrectly but, it goes from I think its 5.8 to the 12.8 after the, if the variance is approved. Other than that, I have nothing more to add. I just appreciate everybody's time thank you.

Chairman Robert Dee: Okay, Glenn is that is she correct on this?

Glenn Watson: Yes, I just checked it, she's correct

Chairman Robert Dee: Okay, okay good. Alright any Board Members

Laura Cumming: Thank you

Chairman Robert Dee: Thank you. Any Board Members have any questions? One this thing? Alright, at this point and time I want to go over the five factors on this. Let's see factor one, what possible detriments would the variance have on nearby properties? It would be no detriment to nearby properties. Houses currently exist and will continue to exist regardless of the variance if they are granted. Each of the houses will have the same capacity so, while impacts such as traffic increases because it increases the number of people living in one or the other houses that can happen regardless of whether the variance is granted or not. What impact would the variance have on the character of the neighborhood? (In audible) granting that will not change the character of the neighborhood. I agree with that because two houses already exist. Number two, if you didn't get the variance how else could you build or what would you want to accomplish your goals. The appellants goal is to have each of their homes on separate lot. They cannot accomplish this without that variance. Number three, what is the code requirement you seek to vary? The applicant takes variances from the frontage area requirements of the Zoning Law. Lot one recover and seek the variance of the lot area from 10n acres to 4.296 acres a variance of 5.7 acres that's the lot two the applicants seek a variance of required shortage from 300 feet to 165 feet.

Glenn Watson: that one thing, that's what I corrected before 165 feet is actually 187.9 feet so, that's not different than on the application

Chairman Robert Dee: That's right, that's a correction of that.

Glenn Watson: Yes

Chairman Robert Dee: Okay, what is the variance requested as a result of a self-created hardship? Variance is not self-creating the second house was built under the old Zoning Law that defines a single-family residence in a manner that are not allowed in one house to be considered a single-family dwelling. So, I have to agree with that and are there any other questions from the Board Members or anybody in the audience?

Kelly?

Kelly MacIntyre: Nobody in the audience

Chairman Robert Dee: This time I make a motion to close the public hearing. Can I get a second?

Paula Clair: Second

Chairman Robert Dee: Who said that? Paula?

Paula Clair: Yeah

Chairman Robert Dee: All in favor?

Paula Clair: Aye

Chairman Robert Dee: Aye, let me ask Vinny? Vinny is on mute

Paula Clair: He is on mute. He is talking to Lenny also.

Chairman Robert Dee: Yeah, I know alright. Vinny!

Vincent Cestone: I'm Aye and so is Lenny

Chairman Robert Dee: Okay, that's good. Alright so that's anonymous because Granite is not here so, all set Glenn.

Glenn Watson: Okay, thank you very much

Chairman Robert Dee: The variances have all been approved, you are all set okay!

Glenn Watson: Thank you

Paula Clair: We just, no we didn't we just closed the public hearing, did we vote on it

Chairman Robert Dee: We took a vote, a vote to close

Paula Clair: Oh alright, I thought were voting to close the public hearing

Chairman Robert Dee: Vote on the motion

Paula Clair: Okay, well my votes the same anyway

Chairman Robert Dee: Okay, Vinny how do you vote on the two variances? Vinny!

Vinny Cestone: Yeah,

Chairman Robert Dee: Your vote on the two variances?

Vincent Cestone: Yes

Chairman Robert Dee: Lenny?

Vincent Cestone: Lenny are you in favor? Lenny votes yes also

Chairman Robert Dee: Okay, good. Alright so it's anonymous. Okay, thank you. Alright you are all set. Is there any other business for the Board? Anything? Anybody have any business? Alright

Paula Clair: Nope

Chairman Robert Dee: Nope, next meeting will be Monday November 9th. At this time Kelly you don't have too much in, there right?

Kelly MacIntyre: No, we have nothing as of right now

Chairman Robert Dee: Okay, this time I make a motion to adjourn

Vincent Cestone: Second

Chairman Robert Dee: All in favor?

Vincent Cestone: Aye

Paula Clair: Aye

Lenny Lim: Aye

Chairman Robert Dee: Aye

(THE MEETING ADJOURNED AT 7:48pm PM BY (UNANIMOUS DECISION))

NOTE: These minutes were prepared for the Zoning Board of Appeals and are subject to review, comment, emendation and approval thereupon.

DATED APPROVED: _____

Respectfully submitted,

Kelly MacIntyre

Secretary

APPEAL # 937 Tax Map # 16.20-1-3

Final hearing date _____ Zoning Board decision APPROVED / DENIED _____

Date application submitted 10/27/20

Application fee \$ 100 Escrow \$ - Received by R

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

I (we), Ricci Electric

residing at 3315 RT 9,

Telephone: home 845-265-4700 business _____

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 # _____ 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:

3315 Route 9, Cold Spring, N.Y. 10516

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

2

16.20-1-26
KATHYRINE M TOMANN PETER
134 HUSTIS ROAD
COLD SPRING, NEW YORK 10516

16.20-1-11.1
SCANGA MARK
SCANG MELISSA
19 SCANGA LN

16.20-1-5
KLEIN STEPHEN
2 RIDGEWOOD RD
COLD SPRING, NY 10516

16.20-1-4
LAVINEL LOTREAN
20 RIDGEWOOD ROAD
COLD SPRING, NEW YORK 10516

16.20-1-11.2
SCANGA JOHN PAUL
SCANGA DAWN
21 SCANGA LN

16.20-1-22
SABITUS HEDI MUELLER
97 EDGEHILL DR
WAPPINGERS FALLS, NY 125903633

16.20-1-8
3315 RT 9 LLC
3315-3319 RT 9
COLD SPRING, NY 10516

16.20-1-18
KEHR BRUCE
KEHR DONNA
3322 RT 9

16.20-1-16
STANCO'S REALTY GROUP,LL
3340 RT 9
COLD SPRING, NEW YORK 10516

16.20-1-10
WTP SUPPLY CO INC
101 LIME RIDGE RD
POUGHQUAG, NY 12570

16.20-1-6
ALTMAN JOSEPH
45 STAGECOACH RD
COLD SPRING, NY 10516

16.20-1-7
RICCI & NAFA REALTY CORP
PO BOX 325
COLD SPRING, NY 10516

16.20-1-9.-1
hart kelly
287 OLD HOPEWELL ROAD
WAPPINGERS FALLS, NEW YORK

16.20-1-9.-2
CROWN ATLANTIC
4017 WASHINGTON RD
MCMURRAY, PA 15317

16.20-1-9.-3
SPRINT
PO BOX 8430
KANSAS CITY, MO 64114

16.20-1-9.-4
OMNIPOINT
12920 SE 38TH ST
BELLEVUE, WA 98006

16.20-1-9.-5
PAMAL BROADCASTING LTD
6 JOHNSON RD
LATHAM, NY 12110

3. PROVISIONS OF ZONING CODE (Do not quote text of code)

Zoning Code § 175-23(D)(1) which prohibits establishment of a new use in a non conforming building or on a non conforming lot without grant of an area variance from the ZBA.

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)

No previous appeals.

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. DECISION OF THE ZBA (Complete wherever section which applies to the appeal you are requesting)

(a) INTERPRETATION of the Zoning Code is requested:

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

20. STATEMENT OF FACTS BY THE APPLICANT:

(1) A brief statement of the nature of the variance requested is:

Variance to side yard set back for the new use of second floor apartment.

Variance to permit storage trailers at/on the rear of the property to remain.

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

To use the second floor apartment as a residence.

The storage trailers are for business use to store our electrical equipment + supply material.

(3) A SPECIAL USE PERMIT is requested:

(a) The nature of the permit is requested:

(4) A brief statement of the facts for which the variance is requested:

(5) The facts showing the use is prohibited as a matter of public health, safety and the ability of the applicant to comply with the provisions of the code for which a special use permit.

DATE: NEW YORK, NY _____ 19__ (PLEASE PRINT)

REQUIREMENTS: This application is subject to the Manager's approval and may be withdrawn at any time without notice and without refund. The applicant's knowledge and intent are assumed to be true and correct.

Signature of Applicant: _____

Printed Name: _____ day of _____ 2004

Address: _____

SUBMISSION REQUIREMENTS: (1) For a VARIANCE or INTERPRETATION please submit (2) individual packets.
(2) For a SPECIAL USE PERMIT please submit (10) individual packets.

Each packet containing one each of the below listed items. These items are very specific and MUST be completed with care:

1. Copy of the agreement
2. Deed to property
3. Denial 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. Certificate of Occupancy for any existing structures
7. Copy of title or required city conditions

APPLICANT'S STATEMENT OF SUPPORT FOR VARIANCE APPLICATION

According to the Board of Appeals, the Board will not grant or deny an area variance that is requested before it if the granting of the variance in the applicant's case would be granted, or withheld pending the decision to the detriment of the safety and welfare of the community. We have developed this Supplement to assist you with preparing, explaining and presenting your case to the Zoning Board. Please complete the forms in this Supplement and submit your application with the required "pages" of testimony. We have provided suggested questions which will assist you in following the "how to apply" prepared by the Board's review. It is strongly suggested that you structure your statement of support in accordance with the format. Provide facts and detail to support such facts.

THE BOARD TO BE CONSIDERED BY THE BOARD

1. What possible negative impact will variance have on nearby properties?
(How close are nearby structures? Will your structure be visible from any of them? Block exposure? Do any potential traffic lights?)

None

2. 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?)

None - Not changing

3. If you didn't get the variance, how else could you build what you want to, and complete your lot?

For example: different location of fence, shorter fence, smaller deck, smaller overhang or addition?

Pre existing building - adding apartment on second floor.

Code 175-23(b)(1) which prohibits establishment of a new use in a nonconforming lot without grant of an area variance from the ZCA.

4. Will the proposed project affect water quality or other existing or potential environmental resources? Will there be a need for additional water supply? Are you proposing to remove any vegetation? Are you proposing to add any new vegetation? Will there be any new or additional water courses on the site? Will there be any new or additional drainage patterns? Will there be any new or additional structures or equipment? Will there be any new or additional parking areas? Will there be any new or additional access roads? Will there be any new or additional utility lines? Will there be any new or additional signs?

Not disturbing any vegetation or environmental surfaces, No outside disturbances, No increased traffic within Building Structure

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 have you owned the property? Did you build the structure without a permit? Is the need for a variance as a result of someone's mistake? Describe.

No

James R. Loeb
Richard J. Drake, *retired*
Glen L. Heller*
Marianna R. Kennedy
Gary J. Gogerty
Stephen J. Gaba
Adam L. Rodd
Dominic Cordisco
Ralph L. Puglielle, Jr.
Nicholas A. Pascale

Alana R. Bartley
Aaron C. Fitch
Judith A. Waye
Michael Martens

Jennifer L. Schneider
Managing Attorney

*LL.M. in Taxation

October 23, 2020

Zoning Board of Appeals
Town of Philipstown
Town Hall, 238 Main Street
Cold Spring, NY 10516

Re: Tony & Kim Ricci/3315 RT 9, LLC
3315 Route 9, Cold Spring, NY - Sec 16.20, Bk 8, Lot 1

Dear Chairman Dee and Board Members,

The above-referenced matter is an application pending before the Planning Board for site plan approval to construct an "upper floor apartment in a mixed use building" (see Use Table – Residential Uses). I am writing at the direction of the Planning Board to refer this application to the ZBA for consideration of grant of the variances that are necessary for the project.

Particularly, the subject property is located in the HC zoning district. It is currently the site of a commercial building housing an electrical contractor business called "Ricci Electric" and a trailer being used as a residential dwelling unit¹. By adding the proposed second floor apartment, the applicants will convert the existing commercial building to a "mixed use building." However, the lot on which the building is located is a legal nonconforming lot as to side yard setback, with 15' being required by the Zoning Code and the existing side yard being only 1.52'. So, the application for approval of an upper floor residential apartment requires a variance from Zoning Code §175-23(D)(1) which prohibits establishment of a new use in a nonconforming building or on a nonconforming lot without grant of an area variance from the ZBA (i.e., in this case a variance to side yard setback for the new use of the second floor apartment).

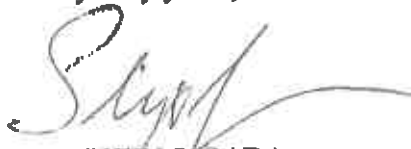
Additionally, the applicants have trailers on their property which are being used to store electrical supplies. Zoning Code §175-44(D)(2) provides:

"No trailer shall be used as a permanent storage facility. Trailers used for temporary storage in connection with a business use shall be removed within one year of their installation. Storage trailers in existence at the time of adoption of this provision may continue for more than one year, provided that once they have been removed, any replacement trailer shall be limited to one year."

¹ The Zoning Code permits maintenance of multiple uses on a single lot as long as bulk requirements are met or the said uses are legal nonconforming as to bulk requirements.

Since the storage trailers are not permitted uses under the Zoning Code, the applicants' site plan cannot be approved unless the storage trailers are removed from the property or a use variance is obtained permitting the trailers to remain on the property.

Very truly yours,



STEPHEN J. GABA

SJG/ev/903820

cc: Applicants
Planning Board



Town of Philipstown

38 Main Street, PO Box 155
Cold Spring, NY 10516

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

CERTIFICATE OF OCCUPANCY

SEC-BLK-LOT: 16.20-1-8 Permit No: 2019:12854

CO/CC Issue Date: 01/13/2020 CO/CC No.: 2019:12854

Owner's Name RICCI & NAFA REALTY CORP
and Address: COLD SPRING, NY 10516

Location of Project: 3315-3319 RT 9

Work Description: COMMERCIAL ADDITION - ROOF REPAIR / CONSTRUCTION - CONSTRUCT
SECOND STORY TO CLEAN UP ROOF LINES

An application having been filed and the required fee paid, pursuant to the Code of Town of Philipstown, and it appearing from said application that proposed project will comply with the Code of the Town of Philipstown and the New York State Uniform Fire Prevention and Building Code, in all respects, a building permit is hereby granted.

IT IS UNLAWFUL TO OCCUPY OR USE THE STRUCTURE OR ANY PORTION THEREOF, FOR WHICH THIS PERMIT IS ISSUED, UNTIL A CERTIFICATE OF OCCUPANCY OR CERTIFICATE OF COMPLIANCE IS OBTAINED.

ISSUED BY:


Code Enforcement Officer

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

THIS INDENTURE, made this 7th day of February, Two Thousand Thirteen

BETWEEN **RICCI & NAFA REALTY CORP.**, a domestic corporation with its principal office at 3315 Route 9, Cold Spring, New York 10516,

party of the first part, and

3315 Rt 9, LLC, a duly organized Limited Liability Company in the State of New York, having its principal place of business at 3315 Route 9, Cold Spring, New York 10516,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable 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,

SEE ATTACHED SCHEDULE A

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 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:

RICCI & NAFA REALTY CORP.

By: Kimberly Ricci
Kimberly Ricci, Vice President

STATE OF NEW YORK)

ss:

COUNTY OF ULSTER)

On the 7th day of February, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared **Kimberly Ricci**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

having its principal place of business at 3315 Route 9, Cold Spring, New York 10516,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable 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,

SEE ATTACHED SCHEDULE A

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 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:

RICCI & NAFA REALTY CORP.

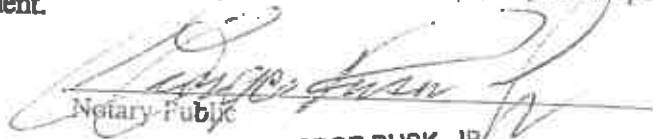
By: 
Kimberly Ricci, Vice President

STATE OF NEW YORK)

ss:

COUNTY OF ULSTER)

On the 7th day of February, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared **Kimberly Ricci**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



GEORGE RUSK, JR.
Notary Public, State of New York
Qualified in Ulster County
Commission Exp.: 06/30/2015

R & R to:

George Rusk Jr., Esq.
Rusk Wadlin Heppner & Martuscello, LLP
PO Box 727
Marlboro, NY 12542

SCHEDULE A
Legal Description

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

BEGINNING at a point which marks the Southeasterly corner of the premises herein described and the northeasterly corner of lands now or formerly of Eugene and Marie Schubert, thence along the westerly side of the Old Albany Post Road and the Albany Post Road, Route 9 as they intersect at that location, N 16-20-00 E 170.00 feet and continuing along the Albany Post Road, Route 9, N 3-21-44 E 59.85' to a point thence along the northerly side of the parcel herein described and through other lands of the grantor herein, and keeping to the center line of a stone wall, N 63-25-54 W 32.91 feet; N 55-40-58 W 84.84 feet; N 52-35-37 W 43.39 feet; N 64-27-44 W 14.96 feet; N 59-15-34 W 25.00 feet; N 54-52-18 W 53.97 feet, to a point being the Northwesterly corner of the lot herein described and thence southwesterly along the centerline of a stone wall, S 34-11-16 W 19.66 feet; S 40-29-50 W 36.48 feet; S 35-56-45 W 44.79 feet; S 38-35-05 W 39.65 feet and S 39-00-00 W 123.77 feet to a point at the northwesterly corner of the land now or formerly of Eugene and Marie Schubert, thence along the southerly side of the premises conveyed herein, S 64-51-31 E 360.05 feet to the westerly side of the Old Albany Post Road and the point and place of BEGINNING.

Together with a right of way, with others, for the purposes of ingress and egress, over an existing right of way on lands of the grantor herein immediately to the north of the parcel described herein, and

Together with the right to draw water from the adjacent property to the south as granted in liber 1490 cp 47 as recorded in the office of the Putnam County Clerk on 10/28/99.

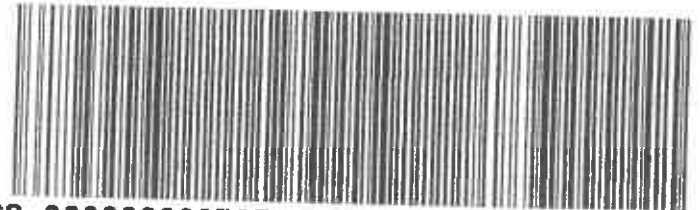
BEING the same premises conveyed by WALTER E. SCHUBERT to Ricci & Nafa Realty Corp. by Deed dated August 1, 2003, and recorded in the Putnam County Clerk's Office in Liber 1644 at Page 287.

This Deed is made pursuant to the unanimous vote of the directors and share holders of Ricci & Nafa Realty Corp., at a joint meeting held on September 15, 2012.

TM#16-20-1-8



Dennis J Sant, County Clerk
 Putnam County Office Building
 100 Glenside Avenue, Room 100
 Carmel, New York 10512



ACS-000000000305304-000000000651068-003

Endorsement Page

Document # 1500391 Drawer # 02
 Document Type: DEED COM OR VACANT Book 1916 Page 29 Recorded Date: 02/26/2013
 Document Page Count: 3 Receipt # 3605 Recorded Time: 2:37:37 PM

PRESENTER:

PRIME TITLE SERVICES LLC
 PO BOX 230
 MARLBORO, NY 12542

RETURN TO:

GEORGE RUSK JR. ESQ.
 PO BOX 727

MARLBORO, NY 12542

PARTIES

GRANTOR

RICCI & NAFA REALTY CORP.

GRANTEE

3315 RT 9, LLC

FEE DETAILS

1500391		
DEED COM OR VACANT	3	35.00
TP-584	1	5.00
CULTURAL EDUCATION		15.00
E & A COMMERCIAL		250.00
RECORD MANAGEMENT		5.00
PROCESSING FEE	1	1.00
AMOUNT FOR THIS DOCUMENT:		311.00
RETT #	000001089	

RESERVED FOR CERTIFICATION

THIS DOCUMENT WAS EXAMINED PURSUANT TO S315
 REAL PROPERTY LAW

EXEMPTIONS

RESERVED FOR CLERKS NOTES

DENNIS J. SANT
 PUTNAM COUNTY CLERK

Zoning Code Variance Application

ESAU-FRIEDMAN RESIDENCE
66 Highland Drive
Garrison, NY 10524

Date: October 5, 2020

Architects:

Springer and Ting Architects
857 Pleasantville Road
Briarcliff Manor, NY 10510

Telephone: 914 762 6868
Email: stingarc@gmail.com
Project #1516



NOTICE TO APPLICANTS

READ ALL INFORMATION ON THIS APPLICATION CAREFULLY. WE WILL ASSIST YOU AS MUCH AS POSSIBLE, BUT IT IS NOT OUR RESPONSIBILITY TO GATHER INFORMATION, MAKE COPIES OR ASSEMBLE APPLICATION PACKAGES.

All submissions to the Zoning Board of Appeals must be submitted a minimum of two calendar weeks prior to being placed on the agenda for review.

The initial review of the application by the Board will be to insure completeness of the application only. If the application is deemed complete, a public hearing date will be set and the applicant will be so notified. If the application is deemed incomplete for any reason, the applicant will be notified of the additional requirements of the Board.

The application must contain detailed directions to the property to enable the Board members to make site visits as required. The property must also be properly posted with the correct 911 address as required by the town code.

A copy of the Zoning Code and Zoning Map is available in the office of the Town Clerk.

Be prepared to present facts and any additional information the Board may need at the time of the public hearing.

All applications for a SPECIAL USE PERMIT must also be referred to the Town Planning Board. This will be done by the clerk of the Zoning Board.

FEES: payable at time of application - Variance - ~~\$200.00~~ (00 - No Escrow)

Interpretation - \$200.00

Special Use Permit - \$ 500.00

ESCROW: \$ 1000.00

Payable at time of application;

* Returnable after adoption of final ZBA resolution and payment of any consulting fees incurred

APPEAL # _____ Tax Map # _____

Final hearing date _____ Zoning Board decision APPROVED / DENIED _____

Date application submitted _____

Application fee \$ _____ Escrow \$ _____ Received by _____

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

I (we), LAKEISHA ESALU AND MARTIN FRIEDMAN

residing at 66 HIGHLAND DRIVE

Telephone: home 914-548-5123 business 914-548-5122

HEREBY appeal the decision of (name and title) GREG WUNNER, CODE ENFORCER

whereby he/she

GRANTED _____ DENIED X a BUILDING PERMIT X a CERTIFICATE OF OCCUPANCY _____

For AN ADDITION

To LAKEISHA ESALU

of 66 HIGHLAND DRIVE

For property at tax map # 90.9-2-41 in zoning district SR (SUBURBAN 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:

SOUTH ON 403 TO RT 9 SOUTH
 LEFT ONTO WINSTON LAKE
 HAIRPIN RIGHT ONTO HIGHLAND DRIVE
 # 66 IS ON THE LEFT
 FOR. MAIL TO 66 HIGHLAND DRIVE SEE V1

- 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)

FOR LIST OF BUTTERS (200 FT. RADIUS) SEE V2

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

CHAPTER 175 VILLAGE V.L. MAPS
CHAPTER 175 SEC. 23 1 & 2

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)

APPEAL # 775, DEC. 7, 1987

FRONT YARD SETBACK

APPROVED MARCH 20, 1988

FOR RESOLUTION SEE V3-5

FOR CERTIFICATE OF OCCUPANCY #5839, MAY 20, 1990, SEE V6
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:

NOT APPLICABLE

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

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

SEE STATEMENT ATTACHED P. 9

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

SEE STATEMENT ATTACHED P. 9

(c) a SPECIAL USE PERMIT is requested: NOT APPLICABLE

(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 NEW YORK, COUNTY OF PUTNAM Putnam N.Y.

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

[Handwritten Signature]
Signature of applicant or agent

Sworn before me this 7th day of October 2000
Notary, Westchester County, Westchester N.Y.

[Handwritten Signature]
NOTARY



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 compiled with exactly

1. Completed appeal form SEE P. 3 THRU 11
2. Deed to property V13-1, V13-2, V13-3
3. Denied application for Building Permit or Certificate of Occupancy SEE V14
4. Building plans with ONE ORIGINAL professional seal and signature SEE A1 THRU A10
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 SEE A-8
6. Certificates of Occupancy for any existing structures SEE V6
7. Contour maps as required by conditions SEE A1 AND V8

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 specific 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 CONSIDERED 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?

SEE SEPARATE SHEETS P. 10-11

- 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?

SEE SEPARATE SHEETS P. 10-11

- 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?

SEE SEPARATE SHEETS P. 10-11

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

SEE SEPARATE SHEETS P. 10-11

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?

SEE SEPARATE SHEETS P 10-11

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

SEE SEPARATE SHEETS P 10-11

5 DETAILS OF APPEAL
(b) FOR A VARIANCE FROM THE ZONING CODE

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

The proposed scope of work consists of a 2nd floor addition on the existing 1st floor exterior walls and the extension of decks to the side and rear on new posts and piers. In 1990 a variance was granted for front yard setback of a 1-story addition with a finished basement to a non-conforming 1-story cottage built in the 60's which pre-dated zoning. Since the house is not sited parallel to the street, the encroachments are several areas triangular in shape. The greatest encroachment is 7.5 ft at the NW corner of a 4 ft deep front porch. The variance granted allowed for a front yard setback of 42.5 ft where 50 feet was required.

See V3-5 for variance resolution. See V15A & B for Dimensional Table..

The proposed addition will keep the footprint of the porch and kitchen bay and they will remain 1-story high. The side deck will come forward toward the street by 1 ft to allow for code-compliant steps and handrails. The 2nd floor addition will encroach 3.5 ft at its NW corner, requiring a variance of 46.5 ft where 50 ft is required. The total area of encroachment contributed by the 2nd floor addition and the widened deck steps is 70 SF.

Despite not increasing an existing encroachment, Sec. 175-23B1 does not permit any increase in height within the front yard encroachment of a non-conforming building. The proposed design increases the existing height by 10 ft over an area of 63 SF in two triangular shapes.

Sec. 175-23 B2 limits the increase in floor area of an existing non-conforming structure to 25%. The existing floor area is 1,934 SF, 1,114 SF being on the 1st floor and 820 SF on the basement level. The proposed design adds 178 SF on the 1st floor and 1,292 SF on the 2nd floor, thereby increasing the floor area by 1,470 SF or 76%. The increased floor area in the front yard encroachment is just 63 SF or 3% of the existing floor area.

See V16 for Sec. 175-23 B1 & B2.

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

This property is located within Continental Village where the terrain is rugged with many glacial features such as lakes, streams, steep slopes, rock ledges and glacial till. One consequence of this geological richness is the limitation on buildable land, especially with the public's increasing awareness and desire for environmental conservation. Such is the case with this property.

Although it is oversized at 1.41 acres in an 1 acre zone, the buildable area is extremely limited and already used by the existing house footprint. The gradient near the road, where the house sits, is 25%. The slope immediately to the rear is 30%. The lower half of the property flattens out, 35 ft below street level, at the stream bed of Canopus Creek/Sprout Brook, an area protected by wetland regulations.

With no additional buildable land, the only way to increase living space is to build up. The most efficient, cost effective way, with the lowest impact on the environment is to maintain the existing footprint using the existing foundations and adding only posts on piers for additional decks to create outdoor space on a steep slope.

For photos of the house see V7. For contours around the house see V8.

SUPPLEMENTAL WORKSHEET FOR AREA VARIANCE

Factors to be considered by the Board:

1(a) Possible detriment to neighbors:

66 Highland Drive as well as all the houses on either side of Highland are in an SR zone of 40,000 SF. The area is rugged in topography and heavily wooded with mature trees and second growth, both deciduous and evergreen. The low density and thick vegetation offer unusual privacy with ample visual screening of homes from each other.

For tax map of properties within 200 ft, see V9. For aerial photos in winter and summer, see V11 and V12.

The house at 68 Highland to the north is the closest neighbor, with over 60 ft. between the homes, 56 ft of which belong to the applicant. There are tall pines along the property line as well as a 6 ft high stockade fence. Few windows are planned for the north side to protect the privacy of this neighbor.

The property to the right, 64 Highland, has 500 ft of street frontage, with the house far to the right.

There are just two properties across the street. The home at 67 Highland is set back from the road at a higher elevation. The other lot is accessed from Ox Yoke Rd. Neither home is directly opposite 66 Highland.

There are six adjoining properties to the rear, across Canopus Creek, on Stuben Road. These are in an HR Zone, mostly 50' x 200' or 1/4 acre lots, with homes sited closer to the road than to the creek. The 300 or more feet of space between these homes and 66 Highland is densely wooded on both banks of the creek.

For photos see V10A & V10B.

The only exterior lighting planned are porch lights and those at exterior doors and steps as required by code.

There is no foreseeable detriment to nearby properties.

1(b) Impact on neighborhood:

Continental Village is historic dating back to the American Revolution, the Civil War and post WWII when it was developed as a recreational area with a lake community. The architectural styles are representative of the eras in which each home was built.

The immediate neighbors along Highland Drive are also ranches with walk-out basements on modest footprints, without garages but with decks to mitigate the steep slopes. The houses across the street are mostly 1 1/2 and 2 stories. Four neighboring homes 64, 68, 71 and 72 Highland are also built quite close to the road as dictated by either a down slope or an up hill. See V10A & V10B.

Should any of the neighbors in a similar situation be granted a similar variance, the rustic character of the area will be retained because of the low density, lush vegetation and dramatic changes in elevation of the area.

2 Alternatives not requiring a variance:

A scheme to keep the 2nd floor behind the front setback was developed and submitted to the building department for review at a time when it was thought the zoning code would be revised to clarify the language of 175-23 B2 limiting increase to 25% in floor area, not of the entire house, but only to the front encroachment, thereby avoiding the need for a zoning variance. Since the code revision has not been implemented and the applicant has been permitted to move forward with a zoning variance application, the scheme being submitted before the Board is that which stacks the front wall of the 2nd floor on top of the 1st floor. This scheme is structurally preferable to the alternative since the greatest load on the 2nd floor, i.e. its exterior wall and two tubs would no longer need to be supported by beams on the 1st floor across its widest span.

3 Variances requested

The applicant is seeking a variance for front yard setback (175 Dimensional Table) of 42.5 ft where 50 ft is required, the increase in height within a previously approved front yard encroachment (Sec.175-23 B1), and the increase in floor area of 76% where 25% is permitted (Sec 175-23 B2). See denial letter on V14, Dimensional Table on V15 and V15A, supplemental regulation 175-23 on V 16.

4 Environmental impact

The work requiring a variance, if permitted, will have minimal impact on the ground as it will be constructed using the existing footprint. The maximum impervious surface allowed is 20% or 12,338 SF. The existing total impervious surface coverage is 2,483 SF or 4%. The proposed addition on the 2nd floor will add an additional 169 SF of impervious surface, bringing the total to 2,652 SF which remains at 4% of impervious surface coverage, significantly below the 20% permitted.

Note: decks with a minimum 1/8" gap between deck boards are not counted as impervious surface per definition, 175-74.

No blasting, regrading nor any increase in paving is being proposed. The normal drainage system will be unaffected. No work will be getting closer to the existing well or septic system. There should not be any increase in traffic, noise or pollution from the proposed work.

66 Highland backs onto Canopus Creek and is within 600 ft. of Cortlandt Lake, both glacial formations left from the Ice Age. It is a very scenic area. It is also of historic interest.

See V10C for photos of the creek and lake. See V10D for historic sites within the neighborhood.

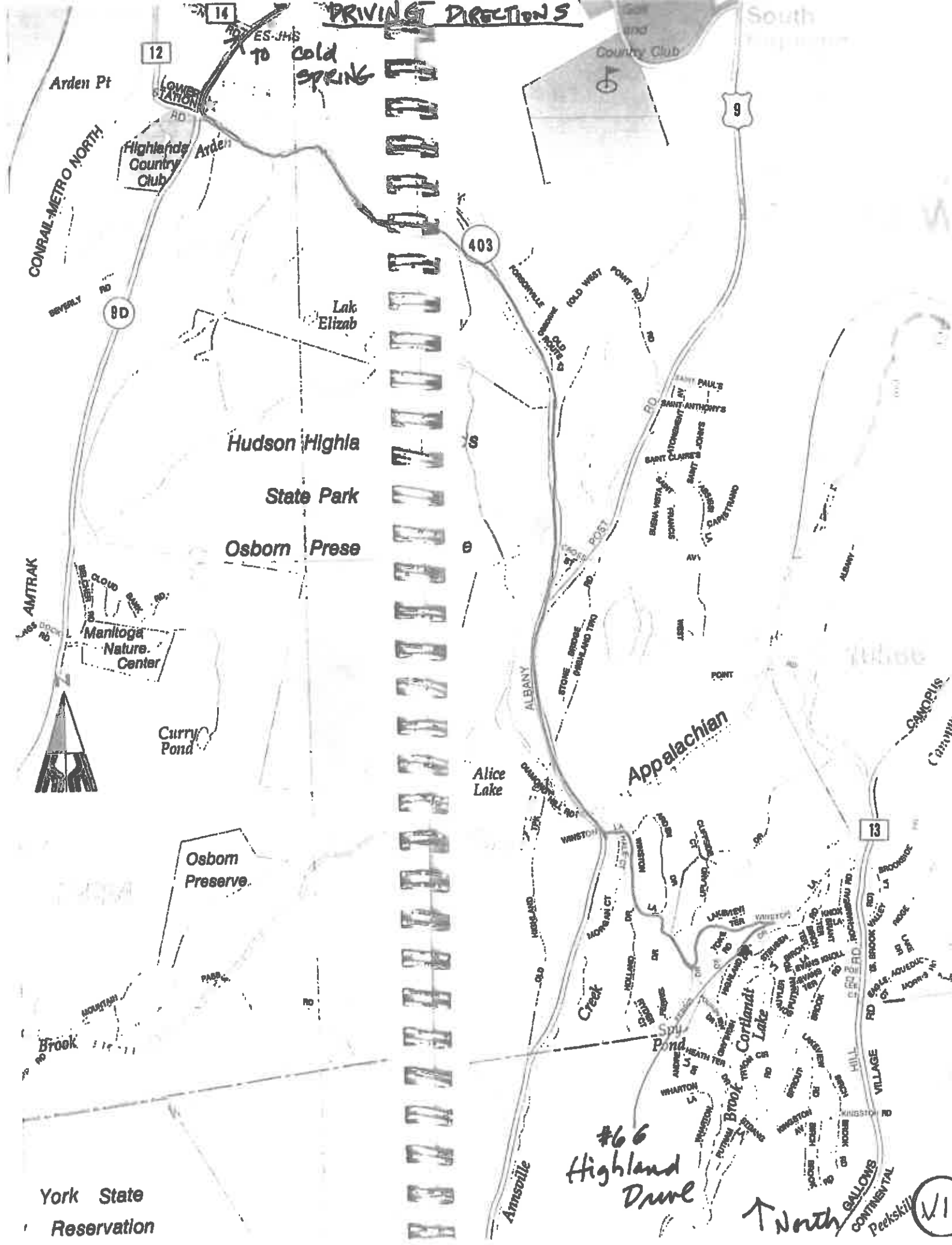
5 Causes for the need of the variance

This property was purchased 6 years ago in October of 2014. The need for the variance is not self- created nor the result of anyone's mistake. There is a C of O for the existing structure. See V6. No work requiring a permit has been done on the house since its purchase. The variance being sought is very small on a lot that is 1 1/2 times the size required. The work will not have a negative impact on the immediate neighbors, the character of the area or the environment, Whereas, it will greatly benefit the homeowners in allowing them full enjoyment and use of their property. It should also enhance the attractiveness and property value of the neighborhood.



DRIVING DIRECTIONS

ES-JHS
to cold
springs



12
Lower
STATION
RD
Highlands
Country
Club
Arden

9D

403

9

Hudson Highla
State Park
Osborn Prese

Manitoga
Nature
Center

Curry
Pond

Osborn
Preserve

Alice
Lake

Appalachian

Cortland
Lake

York State
Reservation

#66
Highland
Drive

North
GALLOWES
CONTINENTAL
Peekskill

VI

90.8-2-37
BUI TAN
DAO HANH
16 OX YOKE RD

90.8-2-33
AMADEI KELLEY
AMADEI AMANDA
26 WINSTON LN

90.8-2-42
CORDONE LEOPOLDO
OLSOK MARY
64 HIGHLAND DR

90.8-2-41
ESAU LAKEISHA T } APPLICANT
66 HIGHLAND DR

90.8-2-38
SIMONDS TIMMIE
MONACO HELEN
7019 ROMBOLLET TER

90.8-2-40
LORENZO DELMIRO
LORENZO FERNANDA
68 HIGHLAND DR

91.5-1-24
MULHEARN JOHN
MULHEARN IRENE
69 STEUBEN RD

90.8-2-39
TSE DORIS
72 HIGHLAND DR
GARRISON, NY 10524

90.8-2-53
BOCCHINO JAMES
POTTER DONNA
73 STEUBEN RD

90.8-2-52
JAMES HELLER & JANET HELLER
3758 ORIOLE CT
SHRUB OAK, NY 10588

90.8-2-51
JAMES E CZUY
77 STEUBEN RD
GARRISON, NY 10516

90.8-2-50
CARDILLO JAMES PATRICK
CARDILLO KIM
79 STEUBEN RD

90.8-2-49
MENDELSON DORIT
440 HERITAGE HILLS
SOMERS, NY 10589

90.8-2-48
MENDELSON DORIT
440 HERITAGE HILLS
SOMERS, NY 10589

90.8-2-47
FALGIANO SCOTT
85 STEUBEN RD
GARRISON, NY 10524

90.8-2-46
CHRISTINE FERREIRA
87 STEUBEN RD.
GARRISON, NEW YORK 10524

90.8-2-45
CHRISTOPHER P. ROGANSKI EMILY
89 STEUBEN ROAD
GARRISON, NEW YORK 10524

90.8-2-43
RB LAND HOLDINGS LLC
16 CRESTMONT AVE
YONKERS, NY 10704

RE: WILLIAM D. AND JUDY A. GENTRY
APPEAL NO. 375

SIRS:

PLEASE TAKE NOTICE THAT the attached is a true copy of a resolution of the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, made the 7th day of December, 1987, and this day filed in the Office of the Clerk of the Town of Philipstown.

Dated: *March 20, 1988*

Respectfully yours,

Louise Giardina
Louise Giardina, Secretary
Zoning Board of Appeals
Town Hall, Cold Spring, New York

TO:

William and Judy Gentry
Highland Drive
Continental Village
Box 397
Peekskill, NY 10566

Town Board, Town of Philipstown
Town Hall
Cold Spring, NY 10516

Planning Board
Donald McNally, Chairman
Garrison, NY 10524

Kenneth Tomann, Building Inspector
Town Hall
Cold Spring, NY 10516

Edward Doyle, Esq.
1010 Park St.
Peekskill, NY 10566

Alan Steiner, Esq.
1037 Main Street
Peekskill, NY 10566

At a meeting of the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York held pursuant to resolution dated November 13, 1987 at 8:00 p.m., at Town Hall in the Village of Cold Spring, New York, on the 7th day of December, 1987, for the purpose of hearing the appeal of WILLIAM and JUDY GENTRY, being Appeal No. 375.

PRESENT: Abby H. Hartman, Chairman
Victor Carlson, Member
Eugene DiBenedetto, Member
James Gilbert, Member
Anthony Merante, Member

The Chairman asked if each member present had reviewed the application and filed papers and exhibits, and upon each answering in the affirmative, the Board proceeded to its deliberations.

Upon deliberation had, the following resolution was offered by Mr. Gilbert and seconded by Mr. Merante, to wit:

A RESOLUTION DETERMINING THE APPEAL OF WILLIAM D. AND JUDY A. GENTRY

William D. and Judy A. Gentry, having appealed for a variance to permit an addition to a pre-existing nonconforming dwelling located on Highland Drive in Continental Village, in the Town of Philipstown, in an R-40 District, as described in the Notice in the "Putnam County News and Recorder." The matter having regularly come on to be heard on December 7, 1987, applicants appeared on behalf of the application. Noone appeared in opposition. After duly hearing all the parties, and due deliberation having been had, the Board finds the facts to be the following:

FACTS

1. William D. and Judy A. Gentry applied for a varinace to allow construction of an addition with a nonconforming front setback to a pre-existing nonconforming dwelling located on Highland Drive, in Continental Village in an-R-40 District.
2. Ownership of subject property was established by Applicants' Exhibit No. 1, a copy of an indenture made on the 13th day of July, 1984, between Brigitte M. Steele (formerly Weisbecker) and William D. and Judy A. Gentry for subject property, the indenture having been filed in Book 820, Page 15 of Deeds in the Office of the Putnam County Clerk on August 7, 1984.
3. Applicants' Exhibit No. 2 was a copy of a survey of subject property made for William D. and Judy A. Gentry on April 28, 1986, by John Salvatore Romeo, licensed professional engineer and land surveyor, No. 027846 of the State of New York. Survey shows property containing 1.415 acres located on the easterly side of Highland Drive and extending to Sprout Brook. Located on the property is a one story frame house, set back 23 feet from Highland Road, with a wood

deck on the southerly side and slate and concrete walks on the other sides.

Applicants' Exhibit #2A is a blow up of the copy of the survey showing the proposed 16 by 20 foot addition on the northerly side of the dwelling. It is set back 25 feet at the nearest point from Highland Drive. All other setbacks are far in excess of those required by the Zoning Law of the Town of Philipstown.

Applicants' Exhibit No. 2C was a cover letter for the deed and surveys signed by both Mr. and Mrs. Gentry pointing out that the addition will not be as close to the road as the existing house.

FINDINGS

The Board having considered the application in accordance with its requirements and having determined in its judgment that:

1. The addition of a baby to the family makes more living space imperative. The dwelling, which was built as a summer house, antedates zoning in the Town of Philipstown, contains only about 600 square feet of living space, well below the 720 square foot minimum required under the Zoning Law of the Town. The proposed addition which is set back 4 feet from the front of the house, will bring the living area to 920 square feet.

2. The land falls off abruptly some 35 feet immediately behind the house, which is currently supported in the rear by 5 courses of concrete block, rendering placement of an addition on the back of the house unfeasible.

3. The present house consists of a living room, dining room and kitchen with a bedroom on the basement level. The proposed addition would contain an entryway, a stairway, a bedroom and bathroom upstairs and a bedroom and storage space on the downstairs (basement) level.

4. Health Department approval for the additions has been filed with the Building Inspector.

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

THAT A VARIANCE TO ALLOW CONSTRUCTION OF AN ADDITION WITH A NONCONFORMING SETBACK TO A PRE-EXISTING NONCONFORMING DWELLING BE, AND THE SAME HEREBY IS, GRANTED.

The question of adoption of the foregoing resolution was put to a vote on roll call on the 7th day of December, 1987, the results of which were as follows:

Abby H. Hartman	Voting for Approval
Victor Carlson	Voting for Approval
Eugene DiBenedetto	Voting for Approval
James Gilbert	Voting for Approval
Anthony Merante	Voting for Approval

There being no further business to come before the meeting, it was adjourned.

Abby H. Hartman / lg
Abby H. Hartman, Chairman

15

CERTIFICATE OF OCCUPANCY

5839

Philipstown Tax Map 78 Block 5 Lot 2
Location of Premises Highland Drive, Peekskill NY 10566

Wm D Pembrey of as above having

heretofore filed an application for a building permit pursuant to the Zoning Law, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee therefore and the undersigned having by inspection ascertained that the applicant has subsequently proceeded with the erection or improvement of the proposed structure in compliance with the requirements of the laws as aforementioned and that the said work and materials met every requirement of the laws as aforementioned and that the premises have now been fully completed and are ready for occupancy pursuant to the provisions of law, Now, therefore, this certificate of

occupancy is hereby issued under the seal of the Town of Philipstown this 29 day of May, 1990.

ZBA - Variance # 375
2 Bedrm + Bath (up) Family Rm down
Not valid unless signed in ink by a duly authorized agent and under
the seal of the Town of Philipstown.
The Cold Spring Press, Cold Spring, NY (2 story w/porch)

TOWN OF PHILIPSTOWN, NEW YORK

By [Signature]
BUILDING INSPECTOR

(V6)



66 HIGHLAND - NORTH SIDE (LEFT)



66 HIGHLAND - SOUTH SIDE (RIGHT)



66 HIGHLAND - EAST SIDE (REAR)



66 HIGHLAND - WEST SIDE (FRONT)

HIGHLAND

DRIVE

92=11'

2

81

GABION WALL

X147.4
X147.5
X146.7

X147.7

X148.3

X149.0

X149.5

FEN

248.00'

PAVED 148' DRIVEWAY

DRIVEWAY

SHE

STOCKADE FENCE

SHED

14.7' x 7.6'

146

144

142

140

138

136

134

132

130

128

126

124

122

120

118

117

SAN 4' x 6' DWELLING #66
FRAME
FF: 146.0
PORCH
18.5'

DECK
25'

DECK
30.5'

20" HICKORY

14" HEMLOCK

137.8

136.8

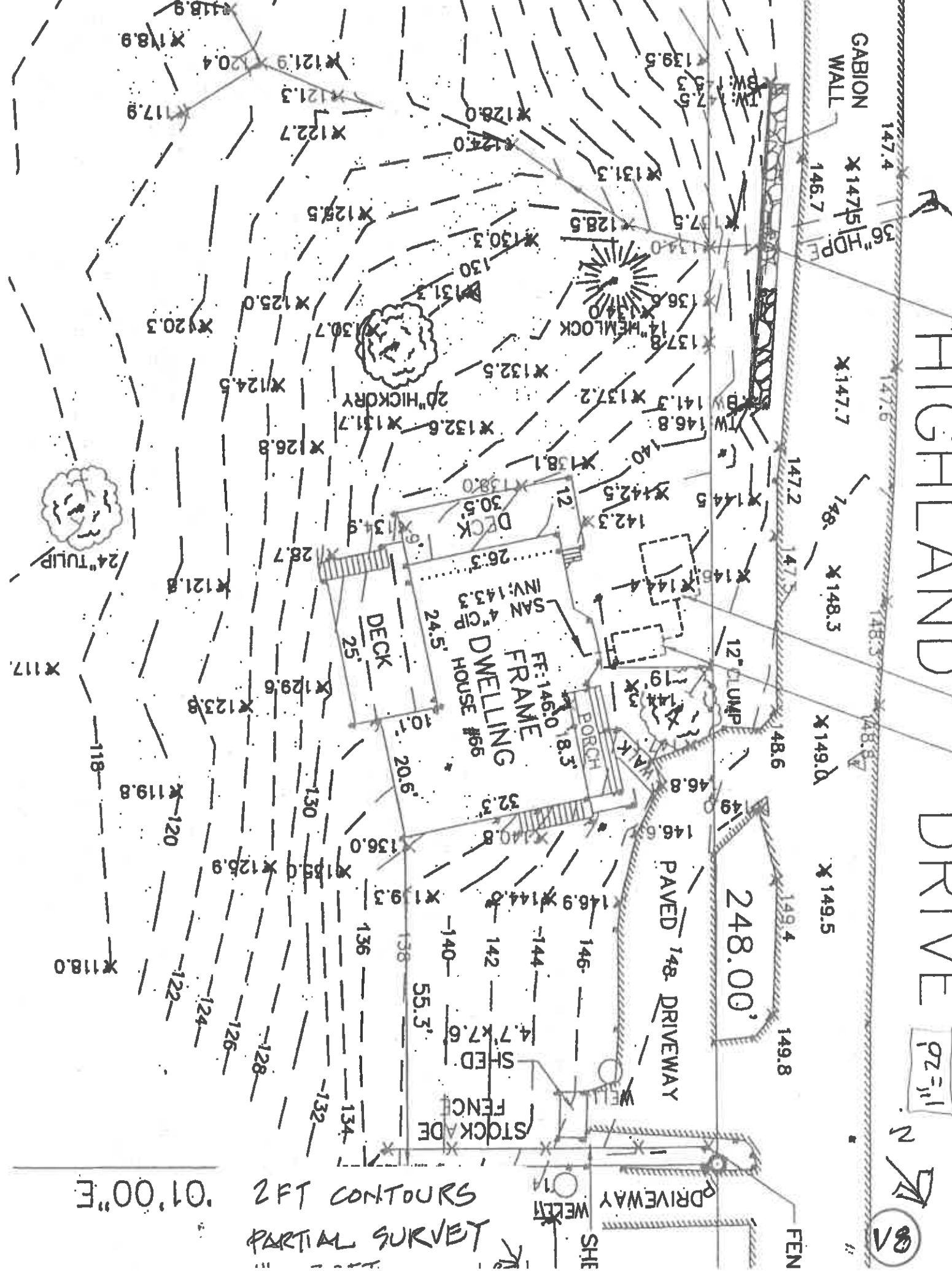
135.0

134.0

133.0

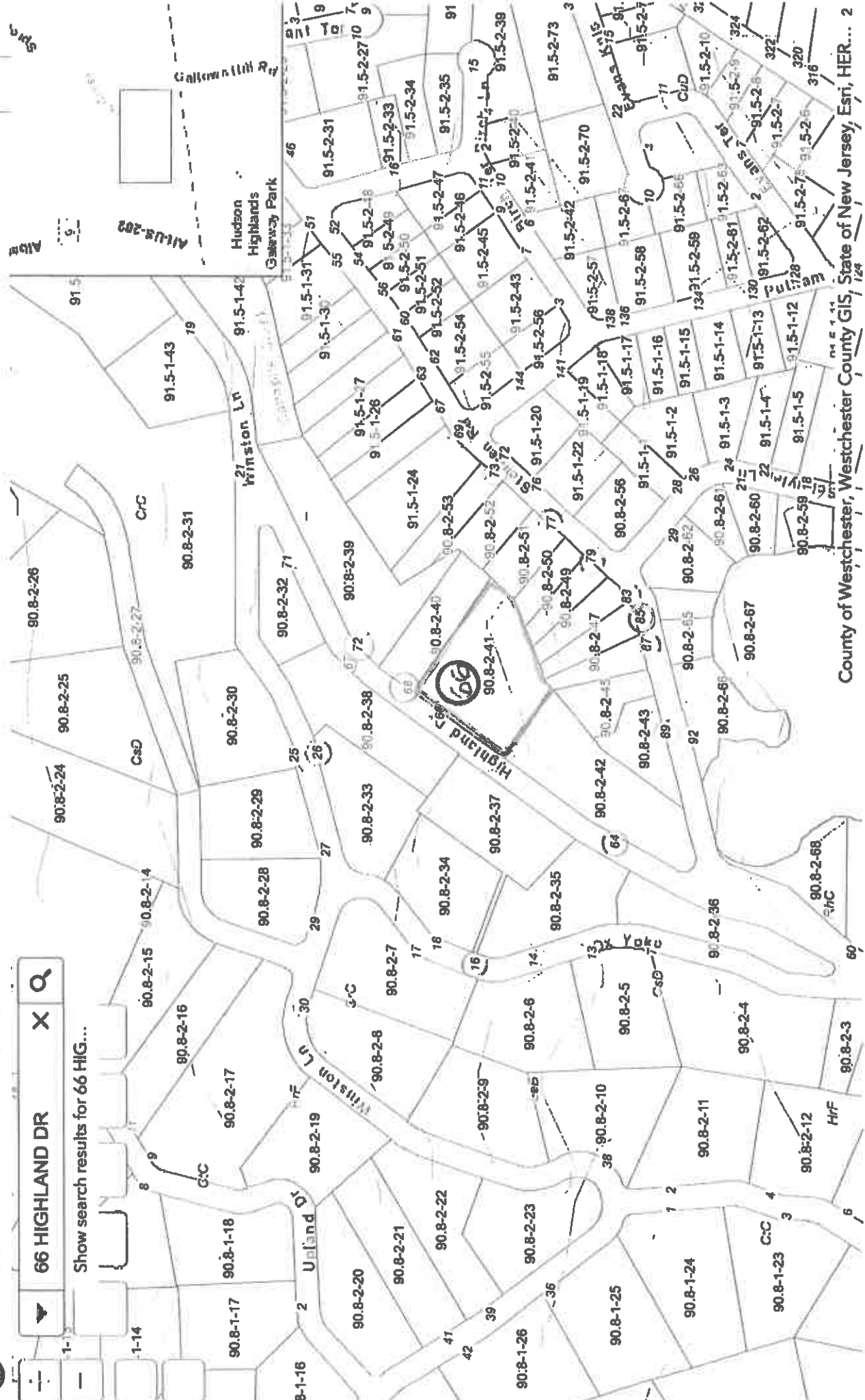
2 FT CONTOURS
PARTIAL SURVEY

01'00" E



66 HIGHLAND DR X Q

Show search results for 66 HIG...



County of Westchester, Westchester County GIS, State of New Jersey, Esri, HER... 2



PROPERTIES WITHIN 100 FT. RADIUS OF 66 HIGHLAND DRIVE

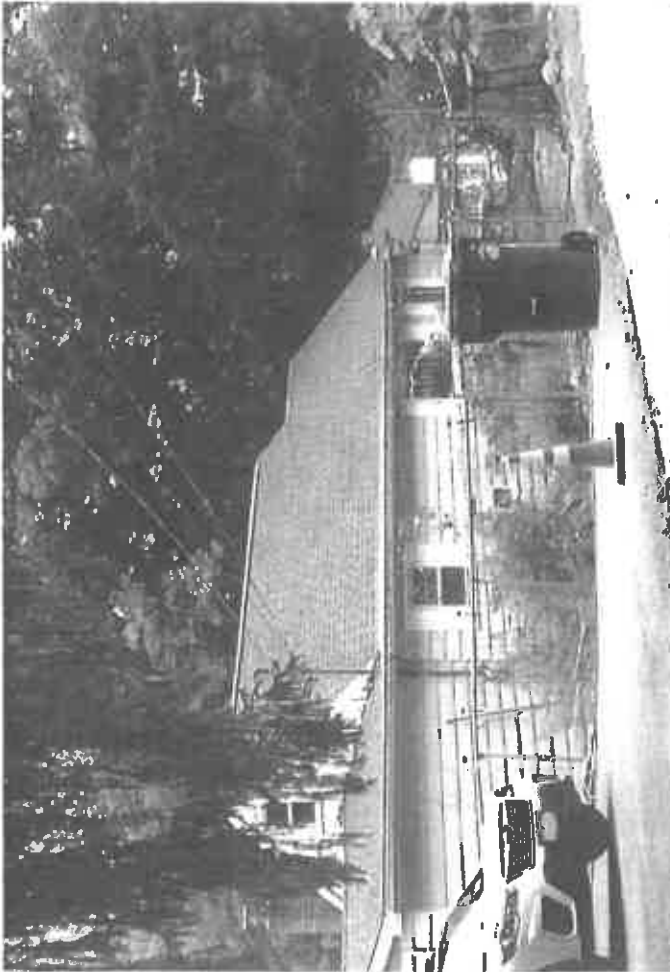
66 THE



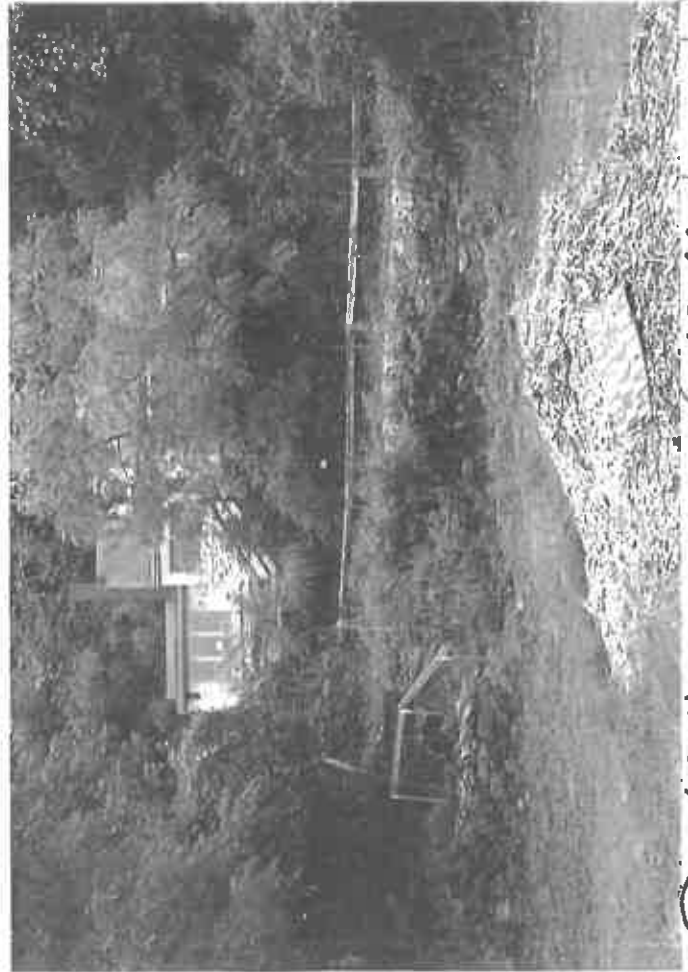
64 HIGHLAND DR. (HOUSE TO THE RIGHT)



68 HIGHLAND DR (HOUSE TO THE LEFT)



72 HIGHLAND (2 HOUSE TO LEFT)



67 HIGHLAND DR (ACROSS HIGHLAND)

10A

NEIGHBORING

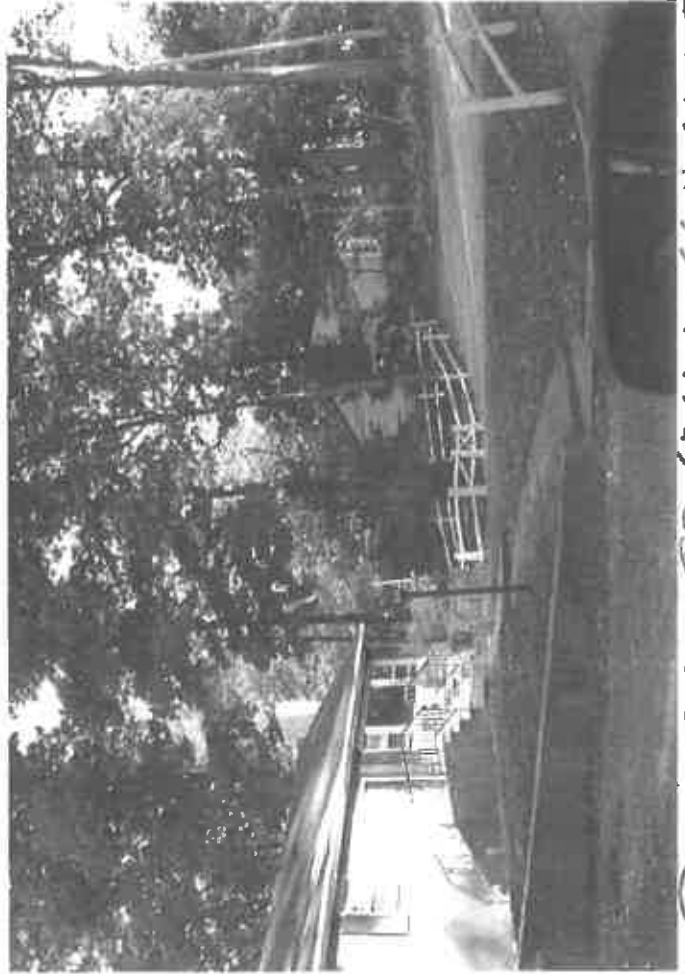
PROPERTIES



89 & 87 STEUBEN RD. (BEHIND 60 HIGHLAND)

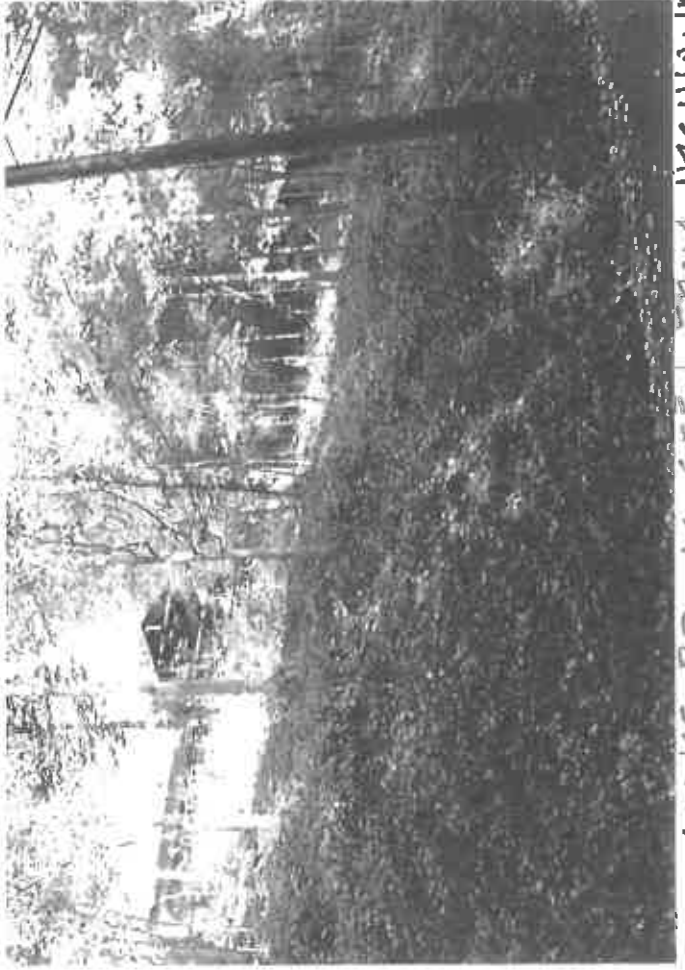


71 HIGHLAND (ACROSS THE STREET)

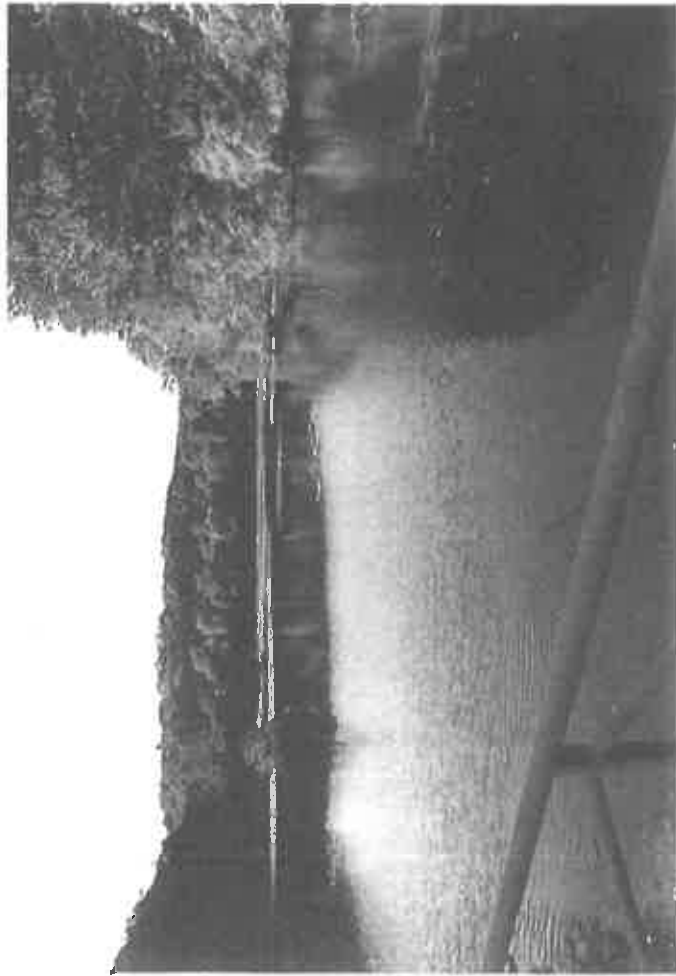


STEUBEN RD. (BEHIND 60 HIGHLAND)

✓
103



16 OX YOKE RD AS SEEN FROM HIGHLAND



CORTLANDT LAKE FROM FOOT BRIDGE AT END OF STEUBEN

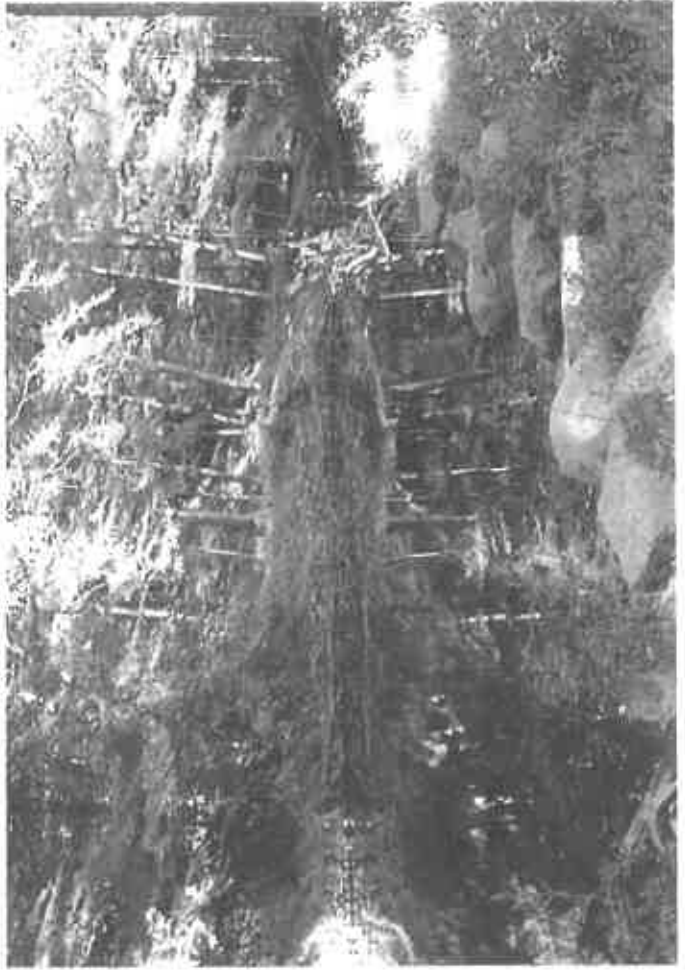


FOOT BRIDGE ACROSS CANOPUS CREEK



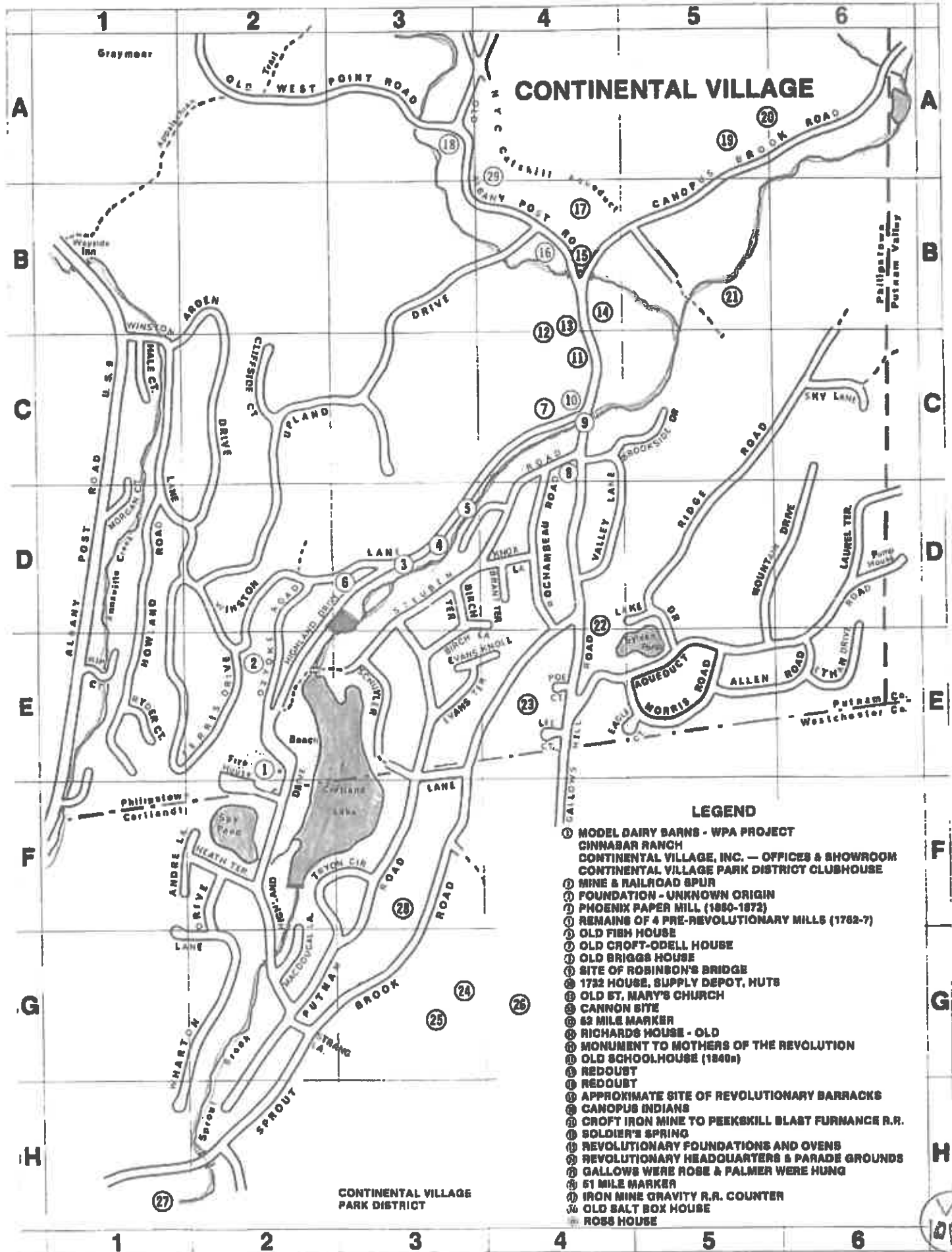
CORTLANDT LAKE FROM HIGHLAND DR.

(100)



CANOPUS CREEK BEHIND 66 HIGHLAND

GUIDE TO HISTORICAL SITES IN CONTINENTAL VILLAGE



DISCOVER GIS DATA NY [View](#), [Download](#), [Connect](#)

[News](#) | [About](#) | [Status \(https://gis.ny.gov/gateway/orthoprogram/index.cfm\)](#) | [Web Services \(http://gis.ny.gov/webservices/\)](#) | [Help](#) | [Contact Us](#)

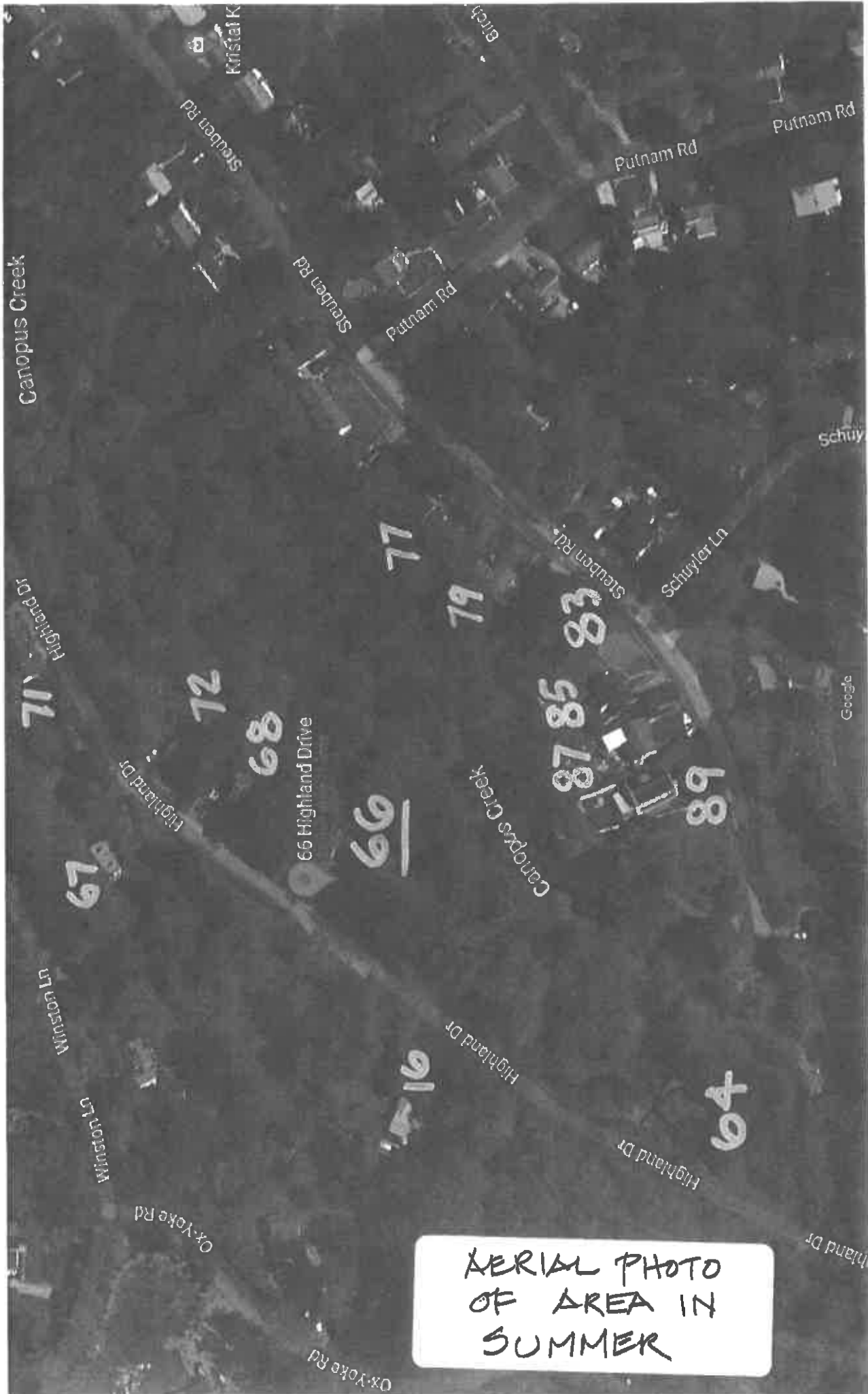


Imagery only



AERIAL PHOTO
OF AREA IN
WINTER





AERIAL PHOTO
OF AREA IN
SUMMER



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

THIS INDENTURE, made the 30TH day of OCTOBER, 2014

BETWEEN

JAMI MCGUIRE AND MARTIN MCGUIRE, 66 HIGHLAND DR., GARRISON, NY 10624

party of the first part, and

LAKEISHA T. ESAU, 68 Virginia Place, Yonkers, NY 10703

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

TEN (\$10) dollars paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

SEE SCHEDULE A ANNEXED

Being and intended to be the same premises conveyed to the party of the first part by deed dated 5/18/2008, recorded 8/27/2008 in liber 1806 page 78

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 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" when ever 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:

Jami McGuire
JAMI MCGUIRE

Martin McGuire by Jami McGuire, agent
Martin McGuire by Jami McGuire, agent

13-1

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of WESTCHESTER, ss:

On the 30 day of OCT in the year 2014, before me, the undersigned, personally appeared

JAMI MCGUIRE

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(s) acted, executed the instrument.

Jill K. Robertson
JILL K. ROBERTSON
Notary Public, State of New York
No. 01RO4883019
Qualified in Westchester County
Commission Expires July 7, 2018

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS TAKEN IN NEW YORK STATE

State of New York, County of, ss:

On the day of in the year, before me, the undersigned, a Notary Public in and for said State, personally appeared

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(If the place of residence is in a city, include the street and street number if any, thereof); that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of, ss:

On the day of in the year, before me, the undersigned, personally appeared

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(s) acted, executed the instrument.

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE

*State of, County of, ss:

(Or insert District of Columbia, Territory, Possession or Foreign Country)

On the day of OCT in the year 2014, before me, the undersigned personally appeared

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), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

Bargain and Sale Deed With Covenants

Title No.

McGuire

TO

Esau

SECTION: 90.8

BLOCK: 2

LOT: 41

COUNTY OR TOWN: Putnam

DISTRIBUTED BY
YOUR TITLE EXPERTS
The Judicial Title Insurance Agency LLC
800-281-TITLE (8485) FAX: 800-FAX-8388

RETURN BY MAIL TO:
Steven Cooper, Esq.
455 Central Park Ave., Suite 216
Scarsdale, NY 10583

13-2

TitleVest Order #: ST-P-426040

Schedule A (Description)

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Philipstown, County of Putnam and State of New York, known and designated as Lot No. 20 on a certain map or plan of lots called "Map 10 of Continental Village, Town of Philipstown, Putnam County, New York" made by Hans E. Frommholz, P. E. & L.S., Yorktown Heights, New York, surveyed May 21, 1949 and filed in the Office of the Clerk of the County of Putnam (Register's Office) Carmel, New York, on March 7, 1950 as Map No. 372-F, being more particularly bounded and described as follows;

BEGINNING at a point on the easterly side of Highland Drive, said point of beginning being also the division line between Lots 21 and 20 on the above-mentioned map;

RUNNING THENCE South 54 degrees 01 minutes East, 298.17 feet to a point in the division line between Lots 10 and 20 of the above mentioned map, said point being also beneath the waters of Sprout Brook;

THENCE South 41 degrees 40 minutes West along a portion of the division line between Lots 10 and 20 and along the division line between Lots 9 and 20 of the above-mentioned map, and still beneath the waters of Sprout Brook, 64.59 feet;

THENCE South 88 degrees 14 minutes West, along the division lines between Lot 20 and Lots 8, 7, 6 and 5 of the above-mentioned map and still beneath the waters of Sprout Brook, 185.97 feet;

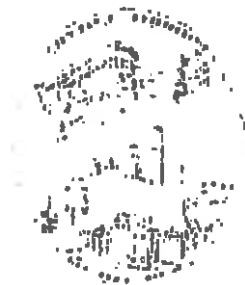
THENCE South 50 degrees 51 minutes West, along the division line between Lots 4 and 20 of the above-mentioned map and still beneath the waters of Sprout Brook, 29.22 feet;

THENCE South 54 degrees 01 minutes west, along the division line between Lots 20 and 19, 182.33 feet to the easterly side of Highland Drive; and

THENCE North 35 degrees 59 minutes East, along the easterly side of Highland Drive, 248.00 feet to the point or place of **BEGINNING**.

FOR INFORMATION ONLY: Said premises also known as 88 Highland Drive, Garrison, NY.

FOR CONVEYANCING ONLY, if intended to be conveyed: Together with all rights, title and interest of, in and to any streets and roads abutting the above described premises, to the center line thereof.



Town of Philipstown

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

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

Lakeisha Esau
66 Highland Dr.
Garrison Ny 10524

9-17-2020

**Ref: Application for building permit
Proposed Second Floor Addition, Expand Decks**

Tax map # 90.8-2-41 (SR Zone)

Included:

- 1. Application for building permit**
- 2. Construction plans**
- 3. Site plans with dimensions**

The application proposes a second floor addition and deck extension within the front yard setback.

**The application proposes a 42.5 front yard setback where 50' is required.
Further the application does not comply with section 175-23 1-2**

Since the proposal does not comply with the Town of Philipstown dimension table found in chapter 175 zoning code the application at this time is DENIED.

If you are aggrieved by this decision, you may submit an application to the Zoning Board of Appeals pursuant to the provisions of article IV of the town code within 60 days from the date of this letter. An application is enclosed.

Any questions please contact this office.

Greg Wunner

Code Enforcement Officer

VIA

ZONING

175 Attachment 2

Town of Philipstown

Dimensional Table

	District									
	RC	RR	HM	HR	SR	HC	OC	M	IC	
Maximum density (conservation) ⁽¹⁾	5 ac/du	3 ac/du	—	—	40,000 square feet	—	—	—	20 ac/du	
Minimum lot size (conventional/ODA) ⁽²⁾	10 ac	5 ac	⁽⁴⁾	⁽⁴⁾	40,000 square feet	40,000 square feet	2 ac	5 ac	20 ac	
Minimum lot size (conservation) ⁽³⁾	⁽⁴⁾	⁽⁴⁾	—	—	⁽⁴⁾	—	—	—	⁽⁴⁾	
Minimum road frontage for conventional subdivision ⁽⁵⁾										
Town road	250	250	40	40	200	200	200	200	200	
County/state road	300	400	50	50	200	300	200	200	200	
Open development area ROW	100	100	—	—	—	—	—	—	—	
Minimum front yard setback										
Town road ⁽⁶⁾	60	60	25	25	50	25	50	100	50	
County/state road ⁽⁶⁾	60	60	30	40	75	35	100	100	100	
Minimum side yard setback ⁽¹²⁾	30	30	10 ⁽¹¹⁾	10 ⁽¹¹⁾	30	15 ⁽⁷⁾	20 ⁽⁷⁾	50 ⁽⁷⁾	50	
Minimum rear yard setback ⁽¹²⁾	50	50	15	10	25	35 ⁽⁷⁾	35	50	50 ⁽⁷⁾	
Setback in conservation subdivision										
										See § 175-20E
Maximum impervious surface coverage ⁽⁸⁾	10%	10%	50%	30%	20%	60%	60%	30%	10%	
Maximum height ⁽⁹⁾	40	40	40	40	40	40	40	40	40	
Maximum footprint (in square feet) for non-residential structures ⁽¹⁰⁾	6,000	4,000	10,000 ⁽¹²⁾	5,000	5,000	40,000	200,000	—	—	

ALL DIMENSIONS IN FEET UNLESS OTHERWISE INDICATED.



PHILIPSTOWN CODE

NOTES:

- (1) The abbreviation "ac/du" stands for "acres per dwelling unit." This figure is also used as the minimum lot size for purposes of a "yield plan." See Article V.
- (2) For conventional subdivision as described in § 175-19A. See § 112-33B of the land development regulations for ODA lots.
- (3) Conservation subdivision as described in § 175-19B. Minimum lot size is determined under the provisions of § 175-11, not this table.
- (4) Varies based upon availability of municipal water and sewer services; see § 175-11D.
- (5) Flag lots and lots in conservation subdivisions may have shorter frontages. See § 175-20 and § 175-22. Minimum frontage on a cul-de-sac is 25 feet.
- (6) Measured from center line of the traveled way as it existed at the date of the building permit (or of construction if built before a building permit was required). Front yard setbacks may be adjusted by the Planning Board or Zoning Board of Appeals to prevailing setbacks in the immediate neighborhood on all roads; a maximum setback or "build-to line" may be established to maintain the "street wall" in the HM and HR Districts. (See § 175-30J for US Rt. 9 setbacks.)
- (7) Wooded buffer required if lot abuts a residential district. See § 175-65D(2).
- (8) See definition in § 175-74; applies to each lot and to an entire subdivision, including new roads and other public areas (see § 175-20F); in conservation subdivisions applies to entire subdivision only. This requirement may be waived by the Planning Board for lots in the HM District and shall not apply to preexisting nonconforming lots. For flexibility provisions, see § 175-11E.
- (9) Also no more than three stories. For height exceptions, see § 175-30E.
- (10) Excluding agricultural structures and all structures legally completed or granted a building permit, special permit, site plan approval, or variance prior to the adoption of this chapter. The purpose of this requirement is to maintain the historic scale and character of development in Philipstown. The intent of this provision shall not be evaded through the placement of multiple large buildings on the same site or otherwise in a pattern that is inconsistent with the scale and character of the Town.
- (11) May be zero for party-wall or zero-lot-line buildings.
- (12) May be increased up to 60,000 square feet for a supermarket, movie theater, or other use deemed important to the economic viability of the hamlet and if all special permit impact criteria are satisfied.
- (13) For permitted encroachments into required setback areas for accessory structures, see § 175-30C and F.



§ 175-23 General.

The purpose of this Article VI is to establish rules that apply to uses and structures initiated legally under previous land use regulations but that no longer comply with this Chapter 175, Zoning, as it has been amended. There are three types of nonconformity: nonconforming uses, nonconforming structures, and nonconforming lots. In any given situation, more than one of these types of nonconformity may apply to a particular land use or structure, in which case the applicable rules for each type of nonconformity must all be followed. Nonconforming uses, structures, and lots are legally permitted to be maintained in accordance with the provisions of this chapter. As used in this chapter, the three types of nonconformity are (these are also defined in Article XII):

NONCONFORMING LOT

A lot of record which was created legally but which no longer complies with the area, shape, frontage, or locational provisions of this chapter for the district in which it is located.

NONCONFORMING STRUCTURE

A structure which does not satisfy the dimensional requirements of this chapter for the district in which it is located, but which was not in violation of applicable requirements when constructed.

NONCONFORMING USE

Any use lawfully existing at the time of the adoption or amendment of this chapter or any preceding zoning law or ordinance, where such use has continued but is not permitted by or does not conform with the use regulations of this chapter for the district in which it is located. A preexisting lawful use which is allowed only by special permit under this chapter shall be considered a conforming use unless it fails to comply with the site plan standards of Article IX.

- A. Continuation. Any use, any building or other structure, or any lot, which existed lawfully (including by variance), on the effective date of this chapter or any amendment thereto, and which fails to conform to one or more of the provisions of this chapter or such amendment thereto may be continued, subject to the provisions and limitations hereinafter specified. Any business owner or tenant may continue to operate an existing business, or any business in the same use category as the existing business, in a zone where it is not permitted by this chapter, and may sell or transfer it to another owner or tenant who shall be permitted to operate the same business, or any business in the same use category as the existing business, in the future.
- B. Enlargement.
- (1) Except as provided in Subsection B(2) below, nonconforming uses of land shall not be enlarged or extended and conforming or nonconforming buildings or other structures or parts thereof devoted to a nonconforming use shall not be enlarged, extended, or structurally altered, except to change to a permitted use or where the result of such changes is to reduce or eliminate the nonconformity. Nonconforming uses located in a building or other structure shall not be extended to occupy land outside such building or other structure. Nonconforming buildings or other structures shall not be enlarged, extended, or structurally altered, except where the enlargement or extension does not increase the nonconformity. The height of a nonconforming principal building that encroaches into a required front setback area may not be increased within the setback area.
- (2) Notwithstanding the provisions of Subsection B(1) above, a nonconforming use or structure may be enlarged by a maximum of 25% of its floor area or impervious surface coverage (whichever is less) by the grant of a special permit by the Zoning Board of Appeals, provided that the Board finds that the enlargement will have no greater impact on neighboring land uses and the public than the existing use or structure, that the enlargement will improve the appearance of the site, and that the enlargement will comply with applicable site plan criteria to the extent practical; and further provided that in the case of a proposed enlargement of a nonconforming structure used legally for business purposes in the HC, HM, OC, or M Districts, the Board shall be required to find only that the enlargement will have no greater impact on the public and on any neighboring residential or institutional uses than the existing structure and will not have an adverse impact on the appearance of the site.
- C. Moving. Nonconforming uses of land shall not be moved to another part of a lot where such uses would also be nonconforming. Nonconforming uses of a building or other structure shall not be moved or extended to any part of the building or other structure not manifestly designed and arranged for such use at the time the use became nonconforming. Nonconforming buildings or other structures shall not be moved unless the result of such move is to eliminate the nonconformity.
- D. Change in use.

