

**DRAFT MINUTES – NOT TO BE USED AS AN OFFICIAL DOCUMENT**

A regular meeting of the Zoning Board of Appeals was held on October 12, 2022. Present: Chairman Peter Hofmann, Jeremy Gutman and Jon Maass, Dan Roemer/Building Inspector, Ms. Lori Lee Dickson/Attorney for the Village and Ms. Valerie Monastra/Village Consulting Planner. Excused: Trustee Liaison Michael Patino, Joseph Capasso and Bruce Gombos.

Chairman Hofmann called the meeting to order.

1. **0 North Mountain Drive** – Public Hearing for proposed plans to construct a new home at vacant lot

Application to the Zoning Board of Appeals is as follows:

**APPLICATION TO ZONING BOARD OF APPEALS**  
**VILLAGE OF DOBBS FERRY**

Note: Four copies of the application must be filed with the Clerk of the Board, no later than 2:00 p.m., twenty-one (21) days prior to the date of the meeting.

Date Filed: 6/17/2022

Applicant's Name: PADRIAL STEINSCHEIDER Telephone: 914-693-5093

Property Location: 0 NORTH MOUNTAIN ROAD

Sheet: 3.10 Block: 1 Lots/Parcel: 3

The undersigned applicant requests a hearing before the Zoning Board of Appeals based on the following: (check one)

☒ Appeals decision of Building Inspector \_\_\_\_\_ Special Permit \_\_\_\_\_

Every application or appeal must be accompanied by an accurate plot plan to scale showing location of all existing structures, and also drawings showing the exact location, dimensions, and the nature of all proposed structures. These requirements will ordinarily be best met with surveys and architect's drawings. The Board may require that surveys and/or drawings be prepared and signed by duly accredited surveyors, engineers, or architects. Applicant is required to show proof of title to or legal interest in the premises, by deed or contract of sale, or other document. This application or appeal is made pursuant to the authorization contained in the Building Zoning Ordinance:

Article: \_\_\_\_\_ Section: 300 Subdivisions: 34.A.(2)

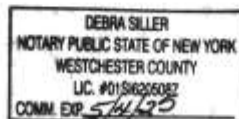
The basis of the relief sought by the undersigned pursuant to the provisions of the Building Zoning Ordinance is as follows: (Set forth briefly all pertinent facts and use additional sheets if necessary).

THE LOT WAS APPROVED FOR SUBDIVISION AS A BUILDING LOT AFTER THE STEEP SLOPES ORDINANCE WAS ADOPTED IN 1989. IT WAS APPROVED AS A BUILDING LOT EVEN THOUGH ITS 23,337 SQUARE FOOT LOT AREA IS REDUCED TO 15,240.9 SQUARE FEET, WHICH IS LESS THAN THE 20,000 REQUIRED.

Applicant: \_\_\_\_\_

STATE OF NEW YORK  
COUNTY OF WESTCHESTER ) ss:

On this 17<sup>TH</sup> day of JUNE, 20 22 before me personally came PADRIAL STEINSCHEIDER who came duly sworn deposes and says that he/she read the foregoing application and knows the content thereof and that the same is true to his/her own knowledge.



Debra Siller  
Notary Public

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Short Environmental Assessment Form is as follows:

***Short Environmental Assessment Form***  
***Part 1 - Project Information***

**Instructions for Completing**

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: New Single Family Home at 0 North Mountain Drive			
Project Location (describe, and attach a location map): 0 North Mountain Drive, Dobbs Ferry, NY, which is the east side of the street. Out parcel from 79 North Mountain Drive.			
Brief Description of Proposed Action: The construction of a new single-family home with integral three car garage and swimming pool is proposed for this property. Due to the steep slopes provisions in the Dobbs Ferry Village Code, there is a deduction that has to be made which will reduce the gross area of the site from 23,337 square feet to 15,241 square feet. This will require a variance from the Zoning Board of Appeals, since the required lot size in the OF-2 zoning district within which the property is located requires a net site area of 20,000 square feet.			
Name of Applicant or Sponsor: Paddy Steinschneider, as Project Design Coordinator		Telephone: 914-693-5093 E-Mail: arch329@gmail.com	
Address: 329 Broadway			
City/PO: Dobbs Ferry		State: New York	Zip Code: 10522
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		0.5357 acres	
b. Total acreage to be physically disturbed?		0.4250 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0.5357 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other(Specify): Golf Course <input type="checkbox"/> Parkland			

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5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

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14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: On-site, subsurface stormwater detention and retention basins. 3,750 cubic feet of storage capacity. _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>  Applicant/sponsor/name: <u>Paddy Steinschneider</u> Date: <u>6/17/2022</u>  Signature: _____      Title: <u>Project Design Coordinator</u>		



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LWRP Consistency Review Coastal Assessment Form is as follows:



**DOBBS FERRY**  
— NEW YORK —

Village of Dobbs Ferry Building Department  
Village Hall - 112 Main Street Dobbs Ferry,  
New York 10522 Phone: (914) 231-8513 - Fax: 914-693-3470

**LWRP CONSISTENCY REVIEW COASTAL ASSESSMENT FORM**

Name of Applicant: PADRIAC STEIN SCHWEIDER  
Mailing address: 329 BROADWAY  
DOBBS FERRY, NEW YORK 10522  
Telephone number: 914-693-5093 / arch329@aol.com  
Tax Lot#: 3.10-1-3 O NORTH MOUNTAIN DRIVE  
Application number, if any: \_\_\_\_\_

**A. INSTRUCTIONS** (Please print or type all answers)

1. All applicants, including the Village of Dobbs Ferry and other agencies, shall complete this CAF for proposed actions subject to **Local Law# 10-05 - LWRP Consistency Law**. This assessment is intended to supplement other information used by the Dobbs Ferry Planning Board in making a determination of consistency with the Coastal Management Policies set forth in the Dobbs Ferry Local Waterfront Revitalization Program (LWRP).
2. All applicants shall complete Sections Band C of this Coastal Assessment Form. If the proposed action meets any of the criteria listed in Section C, Section D must be completed.
3. In Section D, a proposed action should be evaluated as to its potential beneficial and/or adverse effects upon the coastal area and how it may affect the achievement of the specific policy standards contained in the LWRP and the LWRP Consistency Law.
4. Once evaluated, a proposed action may need to be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent with the LWRP policy standards. If an action to be certified as consistent with the LWRP policy standards, it shall not be undertaken.

**B. DESCRIPTION OF SITE AND PROPOSED ACTION**

1. Type of action (check appropriate response):  
☒ a) Directly undertaken (e.g., capital construction, planning activity, agency regulation, land transaction) \_\_\_\_\_  
b) Financial assistance (e.g., grant, loan, subsidy) \_\_\_\_\_

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- c) Permit, approval, license, certification \_\_\_\_\_  
d) Party or Agency undertaking action: \_\_\_\_\_

2. Describe nature and extent of action: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Location of action (Street or Site Description): \_\_\_\_\_  
\_\_\_\_\_

**4. COASTAL ASSESSMENT CRITERIA**

Please check any of the following criteria that describe the proposed action.

- ☐ 1. The proposed action has direct contact with coastal waters, i.e., the Hudson River and/or its tributaries - Wickers Creek and the Saw Mill River.
- ☐ 2. The proposed action utilizes coastal waters, either directly or indirectly.
- ☐ 3. The proposed action involves natural features such as tree cover, hillsides, steep slopes, ridgelines and wetlands that either effect or are affected by coastal waters.
- ☐ 4. The proposed action demonstrates a relationship to coastal waters. The relationship may be recreational, cultural, historic, or business.
- ☐ 5. The proposed action has a direct visual relationship with coastal waters and their waterfronts.

If the proposed action meets any of the above criteria, Section D must be completed.

**5. COASTAL ASSESSMENT**

The following thirteen questions are based directly on the Coastal Management Policies set forth in Section III of the Dobbs Ferry LWRP. The preparer of this form should review these policies which are available online at [www.dobbsferry.com/content/waterfront](http://www.dobbsferry.com/content/waterfront) and also on file in the Village of Dobbs Ferry Clerk's office. Please answer every question and provide a brief explanation. If necessary, you may attach further explanation or refer to other available documentation relating to the proposed action.

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**Applicant**

1. Does the proposed action foster a pattern of development in the coastal area that enhances community character, open space preservation, use of existing infrastructure, use of a coastal location?  
☐ YES ☐ NO ☒ Not Applicable

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2. Does the proposed action preserve historic and archaeological resources?  
☐ YES ☐ NO ☒ Not Applicable

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3. Does the proposed action protect existing scenic resources or enhance visual quality in the community?  
☐ YES ☐ NO ☒ Not Applicable

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4. Does the proposed action minimize loss of life, structures, and natural resources from flooding and erosion?  
☐ YES ☐ NO ☒ Not Applicable

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5. Does the proposed action protect or improve water resources?  
☐ YES ☐ NO ☒ Not Applicable

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6. Does the proposed action protect or restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities?  
☐ YES ☐ NO ☒ Not Applicable

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7. Does the proposed action ~~protect~~ and/or improve air quality?  
☐ YES ☐ NO ☒ Not Applicable

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8. Does the proposed action minimize environmental degradation from solid waste and hazardous substances and wastes?  
☐ YES ☐ NO ☒ Not Applicable

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9. Does the proposed action improve public access to and recreational use of public lands and waters?  
☐ YES ☐ NO ☒ Not Applicable

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10. Does the proposed action ~~protect~~ water-dependent uses, promote siting of new water-dependent uses in suitable locations, and/or support efficient harbor operation?  
☐ YES ☐ NO ☒ Not Applicable

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11. Does the proposed action ~~promote~~ the sustainable use of fish and wildlife resources?  
☐ YES ☐ NO ☒ Not Applicable

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12. Does the proposed action ~~protect~~ agricultural lands?  
☐ YES ☐ NO ☒ Not Applicable

13. Does the proposed action promote appropriate use and development of energy and mineral resources?  
☒ YES ☐ NO ☐ Not Applicable

HIGH EFFICIENCY HEAT PUMP HEATING AND COOLING IN A NEW STRUCTURE BUILT IN ACCORDANCE WITH THE NEW YORK STATE CODE.

**E. FURTHER REMARKS OR ADDITIONAL INFORMATION:**

If assistance or further information is needed to complete this form, please contact Village of Building Department.

Preparer's Name: RADY STANISCHUK telephone: 914-093-5093

Title: Project Design Supervisor Date: 6/17/2022

**Consistency Determination**

- ☐ Yes  
☐ No

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Gotham Design Notes on Zoning Board of Appeals Application: 0 Northn Mountain Drive are as follows:

# GOTHAM

Padriac Steinschneider  
Gotham Design Planning & Development Ltd.  
329 Broadway  
Dobbs Ferry, New York 10522  
(914) 693-5093 • Fax: (914) 693-5390  
(914) 906-4802 cell • [arch329@gmail.com](mailto:arch329@gmail.com)

September 21, 2022

## NOTES ON ZONING BOARD OF APPEALS APPLICATION O NORTH MOUNTAIN DRIVE - DOBBS FERRY, NEW YORK

This Memorandum provides background information for an application to the Dobbs Ferry Zoning Board of Appeals requesting the variances needed to permit the use of an existing parcel located on North Mountain Drive in Dobbs Ferry as a building lot for a single family home with a building coverage and impervious coverage based on the gross lot area of 23,337 square feet. The subject property was created by subdivision in 1989, but has not yet been assigned a street address. It is identified as 0 North Mountain Drive, as are the adjacent parcels flanking the subject property, which were created by subdivision around that same time.

The subject property is located in the OF-2 Zoning District, which permits single-family homes on building lots with a minimum lot area of 20,000 square feet. While the subject property has a lot area of 23,337 square feet, the Village has a provision in its Code by which steep sloped areas must be calculated and a portion deducted from the gross lot area to determine the net lot area. There are sufficient steep slopes on the property to result in a deduction of 7,621.5 square feet, which reduces the net lot area to 15,715.5 square feet.

The Building Inspector in the Village of Dobbs Ferry has indicated that, because of the steep slopes deduction, the subject property is not a building lot and cannot be used for the construction of a single family home. Moreover, the Building Inspector has also opined that he is permitted to limit the permitted building area and permitted impervious site coverage of improvement to the subject property to percentages of the "net" lot area, following the deduction for steep slopes, instead of the "gross" lot area as defined in 300-14.

**The applicant contends that the subject property is a building lot created knowingly and intentionally by the Dobbs Ferry Planning Board after the Steep Slopes Ordinance was adopted and that the permitted building coverage and permitted impervious coverage of the lot is limited to the percentages stipulated in the Code based on the gross lot area of the parcel.**

**In the event that the Zoning Board does not agree that the decisions by the Building Inspector should be overturned, the applicant requests that the variances required to build this house on this property be granted.**

### **Property Owner -**

The Owner of the property, Tanya Giglio, purchased the property for more than \$550,000 with the intent of building a large house on the site. Unfortunately, there was no disclosure by the seller at that time that there was any question that this parcel was a compliant building lot. In fact, the real estate agent, as well as a builder working with the Purchaser prior to the closing confirmed with the Building Inspector at the time that this was indeed a building lot in compliance with the Code.

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The Owner currently lives in Hawaii and is represented locally by Joseph Locascio, an attorney with an office at 560 Warburton Avenue in Hastings-on-Hudson, New York. Mr. Locascio has a Power of Attorney agreement with the Owner, authorizing him to act on her behalf in all matters pertinent to this property. The attorney representing the Owner before the Zoning Board of Appeals is Kristen Wilson, with an office at 235 Main Street in White Plains, New York.

**Subdivisions of Properties on North Mountain Drive -**

The subject parcel was created by subdivision of the Hempleman property located at 79 North Mountain Drive in 1989. An application was filed by Philip and Colleen Hempleman in June of 1989 for the subdivision of the subject parcel from their existing property, which was improved by a single-family home. While the application was noted on the agenda of the June 28, 1989 Round Table Meeting conducted by the Village Staff, there was no comment at that time.

At its July 6, 1989 meeting, the Planning Board conducted a preliminary discussion for the proposed subdivision. The attorney for the applicant noted that all required documents had been submitted and requested a Public Hearing at the next meeting, which was granted.

At its August 3, 1989 meeting, the Planning Board opened the Public Hearing for consideration of the subdivision of the Hempleman property. The attorney for the applicant made a presentation and Chairman Plotkin noted receipt of a letter from the Westchester County Department of Health concerning the size of the existing sanitary sewer line intended to be used by the new parcel. The Chairman advised that the Board would defer action on the application pending resolution of that matter. [In recent discussions with the Village Building Inspector, the Inspector has questioned how we could confirm that the subdivided parcel was intended to be a building lot. The fact that the sanitary sewer serving the parcel was a concern to the Planning Board, as well as front, side, and rear setbacks included on the subdivision plan should confirm that was the intent.] The Public Hearing was adjourned to the September 7, 1989 meeting.

The Round Table conducted a meeting on July 31, 1989 at which the Hempleman subdivision was discussed. At that meeting receipt of a letter from the Westchester County Department of Health was acknowledged. It should be noted that, while it seems that this letter was discussed for the purposes of the Hempleman subdivision, it actually was written to address the needs of the Adler subdivision, which had been approved at the June 1, 1989 Planning Board meeting.

The Public Hearing for the Hempleman subdivision was continued at the September 7, 1989 Planning Board meeting. The attorney for the applicant confirmed that the requests made at the last Round Table meeting had been completed. After some discussion, motion was made to approve the Preliminary Subdivision, which carried with a vote of 4 to 1.



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The Planning Board considered the Final Subdivision of the Hempleman property at its meeting on October 5, 1989. The attorney for the applicant submitted a revised plan which the Minutes of the meeting report "met all of the requirements of the newly enacted Steep Slopes Ordinance." After a brief discussion on the street and the general health, safety, and welfare of the neighborhood, motion was made to approve the subdivision of the Hempleman Subdivision Map dated July 21, 1989 and revised to October 5, 1989. The motion carried with all voting "aye", except for one abstention.

It should be noted that, prior to the subject parcel being created, another property was subdivided to create new building lots also on North Mountain Drive; the application of Alfred and Susan Adler. While the Hempleman subdivision was not contentious, the Adler subdivision had opposition from neighbors, although there was also support.

The process that was followed for the Adler subdivision is included here, due to the fact that the Adler's request for a subdivision of their property was a catalyst for changes that were subsequently made to the Village Code, including deductions for steep slopes. These changes are discussed in more detail below and are the basis for the determination by the Building Inspector that the subject parcel created by subdivision of the Hempleman property is not a building lot. Pertinent to the Hempleman Subdivision, but prompted by the Adler's request for a subdivision, as well as other similar applications in the Village, the Board of Trustees adopted a change to the Village Code on September 19, 1989.

This change, adopted prior to the approval of the Hempleman's Final Subdivision, required building lots to have a **net** lot area compliant with the minimum area listed on Table B-1: OF Districts Dimensional Standards. The difference between the gross lot area and the net lot area is defined in the Code as being calculated by deducting a percentage of the steeply sloped areas on the property from the gross lot area, with the result being the net lot area.

The application submitted by Alfred and Susan Adler for the subdivision of their property on North Mountain Drive was first heard by the Dobbs Ferry Planning Board at its November 3, 1988 meeting. At that meeting, the Chair explained that the proposed building lots were not compliant with the "square /rectangle requirements of the Village Code." The "Rectangle Ordinance was a provision adopted by the Village to reduce the yield possible from the further subdivision of existing parcels. Regardless, the attorney for the applicant requested a "preliminary conditional approval from the Planning Board in order to be able to go to the Zoning Board of Appeals." The Chair agreed to the request and called for a Public Hearing at the next Planning Board meeting.

The Public Hearing was conducted by the Planning Board on December 1, 1988. The proposed subdivision was denied because it did not conform to the 1987 Village Law regarding square/rectangle. The Minutes suggest that the intent was for this matter to go to the Zoning Board of Appeals, but there is no record of this matter being heard by the ZBA.

At the Planning Board's February 2, 1989 meeting, a presentation for a proposed subdivision of the Adler property was heard.

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Chairman Plotkin read the minutes of the previous meeting in regard to the Adler property, which was followed by a brief discussion "concerning the density and heavily traveled area of North Mountain Drive." A topographical map was requested by Planning Board member Stephen Hunter for the next meeting.

The matter was heard at the March 2, 1989 Planning Board meeting at which the topographical map of the property was discussed. Chairman Plotkin directed the Clerk to call for a Public Hearing for Preliminary Review of the Subdivision at the next meeting.

A Round Table Meeting was conducted by the Village Staff on April 5, 1989 at which the subdivision of the Adler property was discussed. A list of five recommendations was created and forwarded to the Planning Board for consideration at the Public Hearing.

The Public Hearing was opened at the April 6, 1989 meeting of the Planning Board and the comments from the Round Table were read by Chairman Plotkin. The Hearing was adjourned to the next regular meeting.

The Public Hearing was continued at the May 4, 1989 Planning Board meeting. The attorney for the Adlers confirmed that the documents submitted for this Hearing included the items requested by the Board as outlined by the Round Table. Chairman Plotkin stated that engineering drawings should be submitted for the retention of water on the two lots being created. Neighboring residents spoke in opposition to the application, citing slope problems, storm drainage issues, and concerns about traffic problems, particularly a lack of visibility for the driveways given the claim that the street has dangerous curves. Two of the persons speaking in opposition cited that "the gradual deterioration of the quality of the houses being built would create an eyesore," and that "the property value of the area [would be adversely affected] by over populating." Chairman Plotkin requested that the applicant agree to a 30 day extension on the Preliminary Subdivision application, which was granted.

The Public Hearing was continued at the June 1, 1989 Planning Board meeting. The attorney for the applicant reported that the applicant had appeared before the Conservation Advisory Committee and that the CAC indicated that the request for subdivision was appropriate for that area on North Mountain Drive.

A traffic engineer was in attendance at the June meeting and spoke on behalf of the applicant. There was discussion about the safety of the existing road, which serves the Ardsley Country Club. The traffic engineer noted that, if it is the volume of traffic that makes the curvy road unsafe, the issue has to be with the activities of the Country Club, and that traffic generated by two additional houses was di minimus in comparison with the traffic generated by the Country Club. Asked by the Chair whether there was anything that could be done to improve the safety of the road, the traffic engineer suggested that a curve sign with the speed limit could be posted in that area or that the Village could improve the road by cutting back the road to eliminate the curves. There was discussion about drainage and the Village Building Inspector requested that the water retention system for each lot be independent of the other lots. The Public Hearing was closed.



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A motion was made to approve the subdivision subject to 1. The retention system must comp with all Village standards, and 2. The easements for the driveway must be filed with the Clerk's office prior to the Building Department reviewing same. The motion passed 3 to 1, with one abstention.

For the purposes of the current application pending before the Dobbs Ferry Zoning Board of Appeals for Giglio, it should be noted that the Adler subdivision approval was concurrent with the beginning of the Village's decision to change the Village Code to include the Steep Slopes Ordinance.

The Hempleman's subdivision review was conducted concurrent with the procedures to amend the Code to add the Steep Slopes Ordinance, with the revisions to the Code completed three weeks prior to the Final Subdivision creating the subject parcel being granted.

**Steep Slopes Ordinance -**

There were several projects in front of the Board of Trustees and the Planning Board in the years between 1985 and 1989 that involved steeply sloped properties. This was also a time during which the value of building lots increased significantly. There were two ordinances that were adopted by the Board of Trustees during that time. The reason for both new ordinances was to reduce the yield possible from the resubdivision of existing properties. The sentiment that the character of the Village was being threatened by "surgical subdivisions" crowding neighborhoods and burdening the Village with overdevelopment was primary to the adoption of these ordinances.

The first change to the Code was 300-34.(1) adopted in 1987 which required that any lot to be created by subdivision had to be able to fit a rectangle capable of containing 80% of the required lot area with the minimum side of the rectangle having to be a minimum of 80% of the required lot width. This meant that if a 10,000 square foot property in the OF-6 zoning district, which requires a minimum net lot area of 5,000 square feet, could not contain two rectangles containing 4,000 square feet each (80% of 5,000) with a minimum dimension of 40 feet (80% of the require minimum lot width of 50 feet), it could not be subdivided.

The second change to the Code to reduce the development yield from residential properties within the Village was 300-34.(2) adopted in 1989. At the July 18, 1989 Board of Trustees meeting, one month following the approval of the Subdivision of the Adler property, the Village attorney announced that a proposed Steep Slope Regulation, prepared at the request of the Planning Board, with discussion already held by the Board of Trustees and Village Staff, was being considered by the Board of Trustees, Building Inspector, and Planning Board. The Board of Trustees adopted a Resolution declaring itself lead agency under SEQR and referred the matter to the Planning Board for review.



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The Planning Board considered the matter at its August 3, 1989 meeting and the Minutes record the following: "Chairman Plotkin, noting the preponderance of applications recently considered by the Planning Board for subdivision, resubdivision, or road improvement specifications for properties that were previously considered undevelopable due to steep terrain and inaccessibility, supported the proposed steep slope ordinance citing the need to consider environmental concerns such as erosion control, soil stability and disturbance of existing drainage systems when considering applications." The Planning Board unanimously voted to recommend that the Board of Trustees adopt the "steep slope" regulations. The record for applications considered in the decades preceding 1989 shows that these concerns were already carefully considered by the Planning Board under Chairman Plotkin's leadership.

At its August 15, 1989 meeting, the Board of Trustees conducted a Public Hearing to consider the addition of the Steep Slopes Ordinance. There were people who spoke both in support of the Ordinance and expressed concerns with it. The Public Hearing was adjourned to the next meeting of the Board of Trustees.

Again, while the verbiage cited concerns about protecting environmentally sensitive lands, preserving the Village's natural resource, and promoting the orderly development of land, the only impact that the change to the Village Code actually had was to require larger gross lot areas than the area required by the numbers listed in Table B-1. There was no restriction to prevent development on the steeply sloped areas and all of the requirements of stormwater management, erosion and sediment controls, and the stability of site conditions were already integral to the Village's Site Plan Review process.

The Public Hearing was continued at the September 5, 1989 Board of Trustees meeting, which again had comments supporting both sides, and then adjourned to the next meeting of the Board of Trustees, presumably to facilitate the Planning Board being able to prepare Findings in support of the adoption of the new Ordinance.

At its September 7, 1989 meeting, the Planning Board reaffirmed its August 3, 1989 Resolution supporting the adoption of the Steep Slope Ordinance and set forth Findings of Fact for that Resolution consisting of 5 points. The points generally state the need for the Steep Slope Ordinance to protect environmentally sensitive site conditions and to protect the Village from intensive development, burdening the Public Works with expenditures[?].

This seemed intended to insert concerns with the economic well-being of the Village and its residents as justification for the new Ordinance. Preventing landslides, erosion, and sedimentation are mentioned. The real intent was framed in Finding 4: "To relate the intensity of development to the steepness of the terrain in order to minimize grading, the removal of vegetation, run-off and erosion and to help ensure the utilization of land in accordance with its natural capabilities to support development;" In other words to reduce density. A motion was made and passed unanimously adopting the Finding of Fact.

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With the exception of Finding 4, all of the other Findings were already conditions that were addressed during Site Plan Review. While it may never have been stated directly by a Board member, it was clear from the discussions at the Board of Trustees and Planning Board that the intent was to reduce the yield in residential units that could be generated by properties in the Village. Several of the residents commenting during the Public Hearing explained that the need for this ordinance was to prevent the subdivision of existing parcels, which could result in an increase in the number of people living in the Village. Traffic, parking in the downtown, and overcrowding the schools were mentioned as the reason this new ordinance was required. No research was provided or reports submitted in support of the claims made in the Finding of Facts.

This ordinance requires that for a parcel to be considered a building lot, the net area of the parcel has to be equal to or greater than the area listed in Table B-1: OF Districts Dimensional Standards. Before that change to the Code, the minimum area listed in Table B-1 was the gross lot area. The difference between the gross lot area and the net lot area as stipulated by this change to the Code was determined by deducting 50% of the lot area that has a sloped of 25% or steeper and deducting 25% of the lot area that has a slope steeper than 15%, but less than 25% in slope. While this ordinance included verbiage about protecting environmentally sensitive site conditions, the actual intent was to reduce density and the subdivision of existing parcels. This is supported by the fact that nothing in the ordinance prevented disturbance of the steeply sloped areas of the site.

Similar to the Rectangle Ordinance, properties that previously could have been subdivided on the basis of the gross lot area, now had to provide that same square footage as the net lot area. Even existing building lots that were 50 feet by 100 feet in the OF-6 zoning district, where 5,000 square feet of lot area was required, suddenly were questionable, if a portion of the lot had a slope exceeding 15%.

Dobbs Ferry is a steeply sloped Village and lots without slopes exceeding 15% are rare. It should be noted that, during the deliberations on adopting the Steep Slopes Ordinance, it was clear that most of the Trustees were not familiar with just how sloped a 15% area actually was. There was confusion over the difference between percent slopes and the degrees of an angle of slope. When asked by a local resident at the Public Hearing what the percentage of a 45 degree angle is, the Trustees agreed that it would be 50%, which is not correct: it is 100%. A 15% slope is an area that changes by 1.5 feet in 10 feet. The fact that the concern was not sincerely driven by protecting steeply sloped properties for their environmental sensitivity was evident by the fact that the restrictions were only mathematical.

**Code Sections Pertinent to the Requested Variance -**

As noted earlier, the subject property has steep slopes that combine to reduce the gross lot area from 23,337 square feet to a net area of 15,715.5 square feet. Since the OF-2 zoning district within which the subject property is located requires a net area of 20,000 square feet, the Building Inspector has determined that a variance is required.



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Following are the pertinent sections of the Code:

Section 300-14 General terms [Definitions].

**Building Coverage**

The area of a lot covered by or permitted to be covered by principal and accessory building(s) and structures on the ground level. Percentage of building coverage is the area of principal and accessory building(s) at the ground level divided by the lot area and expressed as a percentage of the lot area.

**Impervious Coverage**

The part of a lot that is covered by impervious surfaces, expressed as a percentage of the **gross** lot area.

[Note: There was never discussion during the adoption of the Steep Slopes Ordinance that the net area would have any purpose, other than requiring larger lot areas when steep slopes were present. There was never discussion that the permitted Building Coverage or Impervious Coverage would use the net lot area instead of the gross lot area to reduce the size of the house permitted to be built. While the definition for Impervious Coverage clearly states that the gross lot area is used to determine the permitted coverage, the word "gross" is not included in the definition of Building Coverage. We contend that this is an oversight and, if the type of lot area were to be defined for Building Coverage, it would be "gross" lot area, not "net" lot area.

There may be confusion on this and it should be confirmed with the ZBA. According to the Building Inspector, some applicants have used the net lot areas for their calculations of building and impervious coverage. This seems to have created confusion in the Building Department about this. It makes no sense that the Impervious Coverage would be based on the Gross Lot Area, but the Building Coverage would be limited to the Net Lot Area.

**Lot Area, Gross**

The total square footage of a lot prior to any reductions pursuant to this chapter.

**Lot Area, Net**

The area of the lot after any reductions pursuant to this chapter have been deducted. For the purposes of calculating lot area,  $\frac{1}{2}$  of the area of the lot with slopes measuring 25% or greater shall not be included in the total lot area, and  $\frac{1}{4}$  of the area of the lot with slopes measuring at least 15% but less than 25% shall not be included in the net lot area.

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Section 300-34.(2)

Reductions for steep slope areas. In order to protect environmentally sensitive lands, preserve the Village's natural resources and promote the orderly development of land through standards that acknowledge the varied topography in Dobbs Ferry, net lot area shall be determined as the gross lot area less:

- (a) Fifty percent of the gross area of a lot with slopes measuring 25% or greater.
- (b) Twenty-five percent of the gross area of a lot with slopes measuring more than 15% but less than 25%.
- (c) Sloped areas with a horizontal dimension of less than five feet and/or an area of less than 150 square feet may be considered an anomaly by the Planning Board and not deducted from the site area as otherwise required above.

300-46.C.

Steep slopes. Development shall not be permitted in any area measuring 1,500 square feet or more with a slope of 35% or greater, subject to the following exceptions:

- (1)(a) In considering disturbance and development within steep sloped areas, the Board of Trustees and the Planning Board shall require the implementation of appropriate engineering methodologies to prevent slope instability, erosion, and/or sedimentation.
- (2) Building in areas with more than twenty-five-percent slope or areas containing slide potential and other geotechnical hazards shall be avoided unless no alternative building site is available.

[Note: 300-46.C. is an ordinance that actually addresses the impacts that need to be considered and potentially mitigated when building on a property with steep slopes. 35% slopes is a more appropriate threshold for the identification of a steep slope that should be avoided when possible and require mitigating measures when avoidance is not possible. The presence of this ordinance in the Code supports the understanding that 300-32 is about something other than the protection of steep slopes.

**Documents Provided in Support of the Variance -**

Sheet A-1 "Slope Analysis", prepared by Gotham Design under the supervision of Laura Wakefield R.A. and dated 06/15/2022, uses the topographic survey prepared by The Munson Company, Land Surveyors to locate and quantify the areas of slopes that exceed 15%, but are less than 25%, and those that are 25% and greater.



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Sheet A-1 documents that 13.6% of the site has a slope of 15% or less, 42.1% of the site exceeding 15% but less than 25% (9,819.2 square feet), and 44.3% of the site 25% and greater (10,333.4 square feet). Using these areas, the deductions required by the Steep Slopes Ordinance are 2,454.8 square feet for the slopes exceeding 15% but less than 25%, and 5,166.7 square feet for the slopes 25% and greater. Subtracting the total of 7,621.5 from the gross lot area of 23,337 results in a net lot area of 15,715.5 square feet. This is 4,284.5 square feet less than the net lot area required for a building lot in the OF-2 zoning district. To better illustrate the sloped areas on the subject property, Sheet A-1.1 has been provided showing the areas exceeding 15% slopes, but less than 25% in green, and the areas 25% and greater in slope in blue.

Since a 25% slope, which is 2.5 feet in 10 feet and still a slope that can be maintained by a lawnmower without challenge, Sheet A-1.2 has been provided showing the more challenging areas of the site with 35% slopes and greater in red. While 18.58% (4,335.9 square feet) of the site has slopes of 35% or greater, there is an opportunity with the subject property to locate a significant house with usable terraces and a driveway such that the development will substantially not be located on or otherwise adversely impact the areas of the site that are sloped 35% or greater. Sheet A-1.2 is illustrated with a building that has a coverage of 17.9% and a impervious coverage of 33.3% based on the use of the Gross Lot Area. This assumes the use of permeable paving for the terraces and walkways.

**Documents in Support of the Subject Property Being Approved as a Building Lot -**

A copy of the "Subdivision Map Prepared for Philip and Colleen Hempleman" prepared by Charles Riley, Land Surveyor, dated as completed July 10, 1989, dated as revised October 5, 1989, and dated as filed with the County Clerk of Westchester County Division of Land Records December 20, 1989, which includes the signature of Chairman Plotkin dated October 16, 1989.

Above Chairman Plotkin's signature is the statement "Approved under authority of a Resolution adopted October 5, 1989 by the Planning Board of the Village of Dobbs Ferry for filing in the County Clerk's office, Westchester County (Division of Land Records) if filed within 90 days from the date thereof."

This Subdivision Map clearly shows "Parcel A" as a separate lot labeled with an area of 23,337 square feet. It also shows the front, side, and rear yard setbacks that are required by the Village of Dobbs Ferry Zoning Ordinance for the construction of a primary building on the parcel. The Subdivision Map also includes a statement signed by the Westchester Commissioner of Health, dated November 30, 1989 approving the parcel "subject to the provision of public water supply and public sanitary sewer facilities to serve all structures intended for human occupancy constructed herein."

The Subdivision Map also includes conditions stipulated in the Minutes of the Public Hearing conducted by the Planning Board for the creation of this separate Parcel A from the Parcel B, which is 79 North Mountain Drive.

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The conditions read "100% retention required for house and impervious surface for Parcel A. Subject to the construction of a retention system which complies with all Village of Dobbs Ferry standards."

A copy of Sheet 003.010 of the Tax Map of Town of Greenburgh, dated July 1, 2007 that shows both Parcels A and B, designated as parcels 3 and 4 in Block 1 consistent with the filed Subdivision Map.

A copy of the Planning Board Minutes dated October 5, 1989 at which the Public Hearing for the Subdivision creating the subject parcel was continued and then closed, which includes the following statements:

"Submitted a revised plan which in her opinion meets all the requirements of the newly enacted Steep Slope Ordinance."

"Motion was made by Mr. Hunter seconded by Mr. Cryan, to approve the subdivision of Mr. & Mrs. Hempleman dated July 21, 1989 and revised to October 5, 1989, drawn by Charles Riley, licensed land surveyor, subject to the appended sheet being signed and sealed by a licensed land surveyor. Motion carried, Mr. Hunter, Mr. Cryan, and Chairman Plotkin voting "aye", Mr. Klein abstaining."

At the same meeting on October 5, 1989, another application was also being considered with the impact of the steep slopes ordinance on the yield of residential units being the concern. Mr. Richard Salerno, the owner of property on Livingston Avenue, was before the Planning Board for his project Livingston Ridge. The project had already been approved for 22 residential units, but there was concern that the new Steep Slopes Ordinance could require an adjustment on that yield. The following is from the Planning Board minutes for that meeting:

"Mr. Salerno asked how a steep slope is determined? Chairman Plotkin stated that as in the previous case, Hempleman, the surveyor took the individual contours, difference in elevation between the contours, distance between the two contours give horizontal distance and he worked out the percentage. Another way to interpret the ordinance would be a reasonable engineering determination of the slopes of the property."

Mr. Salerno agreed to have his property evaluated for steep slopes to see what adjustment was required under the new ordinance. Following that evaluation being performed, the number of units in Livingston Ridge was adjusted. It increased from the previously approved 22 residential units to 24 residential units.

A copy of the Town of Greenburgh Property Card that documents that the unimproved parcel is assessed with a value of \$549,800. The Town of Greenburgh Tax Assessor's office considers this parcel to be a building lot, which is consistent with the value of its assessment.



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**Summary -**

The subject parcel is a building lot approved by the Dobbs Ferry Planning Board and maintained as such since its creation on October 5, 1989.

The building coverage permitted in the OF-2 zoning district within which the subject parcel is located is limited to 18% of the gross lot area of 23,337 square feet, which calculates to 4,200.66 square feet.

The impervious coverage permitted in the OF-2 zoning district within which the subject parcel is located is limited to 40% of the gross lot area of 23,337 square feet, which calculates to 9,334.8 square feet.

While the Building Inspector has indicated that he may interpret the limits on the coverages of buildings and impervious surfaces to the net lot area, following the deduction of the areas for steep slopes, there is nothing in the Dobbs Ferry Village Code that mandates or even supports this interpretation or right to do so.

Although the definition of "Building Coverage" in the Code does not indicate "gross" or "net" area, the definition of "Impervious Coverage" does indicate "gross lot area." Where there is ambiguity in the Code, specifically with whether it is net lot or gross lot area that is to be used for determining the limit for building coverage in this case, the interpretation has to be decided in the applicant's favor. In this case, that means that the permitted building coverage should be calculated using the gross lot area, consistent with the permitted impervious coverage. Moreover, given a primary concern with the creation of this building lot by the Planning Board being the management of stormwater runoff, it would be incongruent for the house itself to be restricted to the net lot area, but the impervious surface to then be permitted to be determined by the gross lot area.

On September 28, 2010, the Village adopted a new Chapter 300 Zoning and Land Use. This new Code still includes all of the sections cited above. The method for determining the slope was codified in the new Code in Section 300-34.A.(3). A formula is provided, which is what was used for the current application.

It is a fact that this lot was created by the legal process of subdivision by the Planning Board on October 5, 1989.

It is clear that the Chair of the Planning Board, who was directly engaged in the process of determining the Steep Slopes Ordinance that was added to the Code and continues to this day should be used.

The fact that the Chair signed the Plat Map that was filed with County Records documents that he believed this parcel to be a building lot under the requirements of the Steep Slopes Ordinance.

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Since the lot was created after the Steep Slopes Ordinance was added to the Code, we have argued that the Building Inspector erred in his determination that this is not a building lot.

If the Zoning Board of Appeals determines that the Building Inspector was correct in his determination, we request a variance for the strict interpretation of the Code to permit this parcel to be a building lot, despite the net area being less than the required 20,000 square feet.

We also ask that the Zoning Board of Appeals confirm our interpretation of the Code that the Building Coverage and the Impervious Coverage are both based on the Gross Lot Area and not the Net Lot Area.

**Attachments -**

Planning Board Minutes	November 3, 1988	Addressing Adler Subdivision
Planning Board Minutes	December 1, 1988	Addressing Adler Subdivision
Planning Board Minutes	February 2, 1989	Addressing Adler Subdivision
Planning Board Minutes	March 2, 1989	Addressing Adler Subdivision
Round Table Minutes	April 5, 1989	Addressing Adler Subdivision
Planning Board Minutes	April 6, 1989	Addressing Adler Subdivision
Planning Board Minutes	May 4, 1989	Addressing Adler Subdivision
Round Table Minutes	June 28, 1989	Addressing Hempleman Subdivision
Planning Board Minutes	July 6, 1989	Addressing Hempleman Subdivision
Board of Trustees Minutes	July 18, 1989	Addressing Steep Slopes Ordinance
Round Table Minutes	July 31, 1989	Addressing Hempleman Subdivision
Planning Board Minutes	August 3, 1989	Addressing Steep Slopes Ordinance
Planning Board Minutes	August 4, 1989	Addressing Hempleman Subdivision
Planning Board Minutes	August 4, 1989	Addressing Steep Slopes Ordinance
Board of Trustees Minutes	August 15, 1989	Addressing Steep Slopes Ordinance
Board of Trustees Minutes	September 5, 1989	Addressing Steep Slopes Ordinance
Planning Board Minutes	September 7, 1989	Addressing Hempleman Subdivision
Planning Board Minutes	September 7, 1989	Addressing Steep Slopes Ordinance
Board of Trustees Minutes	September 19, 1989	Addressing Steep Slopes Ordinance
Planning Board Minutes	October 5, 1989	Addressing Hempleman Subdivision

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Deed is as follows:

*Westchester*  
*3.10*  
*1*  
*3*

Standard N.Y.B.T.U. Form 8002\*-Bargain and Sale Deed with Covenant against Grantor's Acts-Individual or Corporation (Single Sheet)

THIS INDENTURE, made the 29th day of September, 2017

**BETWEEN JOSHUA R. WEISS, residing at 79 North Mountain Drive, Dobbs Ferry, NY 10522**  
party of the first part,

and **TANYA GIGLIO, residing at 33 Ardsley Avenue, Irvington, NY 10533**  
party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of **TEN (10.00) 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.

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 HERETO.

BEING a portion of the same premises conveyed to Grantor by deed(s) dated 8/10/2017 and recorded 8/24/2017 in Control No. 572363303

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 THE PRESENCE OF:

*Joshua R. Weiss*  
*by David M. Gladstone*  
Joshua R. Weiss by David M. Gladstone his agent

Under Power of Attorney dated: 9/20/17  
to be recorded simultaneously herewith



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**Record & Return Title Agency, Inc.**

**Old Republic National Title Insurance**

**Schedule A Description**

Title Number **RR-W-31112-17**

Page **1**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Village of Dobbs Ferry, Town of Greenburgh, County of Westchester and State of New York shown and designated as Parcel "A" on a certain map entitled, "Subdivision Map prepared for Philip and Colleen Hempleman dated July 21, 1989, revised October 5, 1989, made by Charles Riley", and filed in the Office of the County Clerk of Westchester County (Division of Land Records) on December 20, 1989 as Map No. 24033, said parcel being bounded and described as follows:

BEGINNING at a point on the easterly side of North Mountain Drive distant as measured along the same the following courses and distances from a monument set at the corner formed by the intersection of the easterly side of Osceola Avenue with the northerly side of North Mountain Drive:

South 82 degrees 29 minutes 20 seconds East, 166.00 feet;

Southeasterly on a curve to the right having a radius of 106.50 feet, a distance of 130.17 feet to the point of beginning of premises herein described;

RUNNING THENCE from said point of beginning:

North 77 degrees 32 minutes 20 seconds East, 112.00 feet; and

North 25 degrees 42 minutes 30 seconds East, 19.24 feet to the division line between Parcel "A" and Parcel "B" as shown on the above mentioned Filed Map No. 24033;

THENCE along said division line South 18 degrees 29 minutes 50 seconds East, 184.52 feet to the northerly line of land now or formerly of Adler, formerly of Valle;

THENCE along said land now or formerly of Adler:

South 71 degrees 20 minutes 10 seconds West, 130.40 feet to the easterly side of North Mountain Drive;

THENCE northerly along the same, on a curve to the right having a radius of 483.50 feet, a distance of 117.55 feet to a point of tangency; and

THENCE along said easterly side of North Mountain Drive, North 12 degrees 27 minutes 40 seconds West, 66.00 feet to the point and place of BEGINNING.

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State of New York )ss..  
County of Westchester )

On the 29<sup>th</sup> day of September in the year 2017 before me, the undersigned, a notary public in and for the said state, personally appeared David M. Gladstone 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.

CLARE SALAMIDA  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 025A6168158  
Qualified in Westchester County  
My Commission Expires May 07, 2019

  
Notary Public

**BARGAIN AND SALE DEED  
WITH COVENANT AGAINST GRANTOR'S ACTS**

Sect.3.10  
Block 1  
Lot 3

Town of Greenburgh  
County of Westchester  
Street Address:  
North Mountain Drive,  
Dobbs Ferry, New York

**JOSHUA R. WEISS**

**TO**

**TANYA GIGLIO**



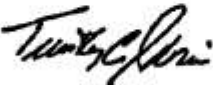
**RECORD AND RETURN TO:**



Record and Return Title Agency, Inc.  
7 Dempsey Place  
Eastchester, NY 10709

RECORDED AT THE REQUEST OF  
RECORD & RETURN TITLE AGENCY, INC.  
TITLE # AA-W-31112-17  
THRU: ☒ ORT ☐ WLT ☐ AmTrust  
☐ COURTESY RECORDING

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<small>The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.</small>		 <b>*572703137DED001Z*</b>	
<b>Westchester County Recording &amp; Endorsement Page</b>			
<b>Submitter Information</b>			
Name:	Robin Schemitsch	Phone:	914-395-2285
Address 1:	7 Dempsey Place	Fax:	914-395-1028
Address 2:		Email:	PostClosing@recordandreturn.com
City/State/Zip:	Eastchester NY 10709	Reference for Submitter:	RR-W-31112-17 DEED
<b>Document Details</b>			
Control Number:	<b>572703137</b>		
Package ID:	2017092700078001001		
Document Type:	<b>Deed (DED)</b>		
Document Page Count:	<b>3</b>	Total Page Count:	<b>4</b>
<b>Parties</b>			
<input type="checkbox"/> Additional Parties on Continuation page			
<b>1st PARTY</b>			
1:	WEISS JOSHUA R	- Individual	
2:			
<b>2nd PARTY</b>			
1:	GIGLIO TANYA	- Individual	
2:			
<b>Property</b>			
<input type="checkbox"/> Additional Properties on Continuation page			
Street Address: N/A NORTH MOUNTAIN DRIVE		Tax Designation: 3.10-1-3	
City/Town: GREENBURGH		Village: DOBBS FERRY	
<b>Cross-References</b>			
<input type="checkbox"/> Additional Cross-Refs on Continuation page			
1:	2:	3:	4:
<b>Supporting Documents</b>			
1: RP-5217      2: TP-584			
<b>Recording Fees</b>		<b>Mortgage Taxes</b>	
Statutory Recording Fee:	\$40.00	Document Date:	
Page Fee:	\$20.00	Mortgage Amount:	
Cross-Reference Fee:	\$0.00	Basic:	\$0.00
Mortgage Affidavit Filing Fee:	\$0.00	Westchester:	\$0.00
RP-5217 Filing Fee:	\$250.00	Additional:	\$0.00
TP-584 Filing Fee:	\$5.00	MTA:	\$0.00
Total Recording Fees Paid:	<b>\$315.00</b>	Special:	\$0.00
<b>Transfer Taxes</b>		Yonkers:	\$0.00
Consideration:	\$575,000.00	Total Mortgage Tax:	<b>\$0.00</b>
Transfer Tax:	\$2,300.00	Dwelling Type:	Exempt: <input type="checkbox"/>
Mansion Tax:	\$0.00	Serial #:	
Transfer Tax Number:	4289		
<small>RECORDED IN THE OFFICE OF THE WESTCHESTER COUNTY CLERK</small>   <small>Timothy C. Jabel Westchester County Clerk</small>		<b>Record and Return To</b> <input type="checkbox"/> Pick-up at County Clerk's office  <b>RECORD &amp; RETURN TITLE AGENCY</b> <b>7 DEMPSEY PLACE</b>  <b>EASTCHESTER, NY 10709</b>	





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Property card is as follows:

 <b>TOWN OF GREENBURGH</b> 177 Hillside Ave Greenburgh, NY 10607 (914) 989-1520		PROPERTY DATA CARD (Online)									
<b>Location:</b> 0 N MOUNTAIN DR	<b>Parcel ID:</b> 3.10-1-3	<b>Class:</b> 311 - Residential Vacant Land									
<b>Location</b>	<b>General Information</b>	<b>Special Districts</b>									
0 N MOUNTAIN DR DOBBS FERRY, NY 10522	Living Units: 3057995 Alternate ID: DOBBS FERRY School District: 08/15D/IDP44 Former SBL: OF-2 Additional Lots: Zoning:	NY001 - NO. YONKERS DISTRICT WR001 - COUNTY REFUSE DIST									
<b>Land Information</b>	<b>Assessment Information</b>										
Total Acres: 0.54	<table border="1"> <thead> <tr> <th>Land</th> <th>Building</th> <th>Total</th> <th>Yr</th> </tr> </thead> <tbody> <tr> <td>549,800</td> <td>0</td> <td>549,800</td> <td>22</td> </tr> </tbody> </table>	Land	Building	Total	Yr	549,800	0	549,800	22		
Land	Building	Total	Yr								
549,800	0	549,800	22								
Square Feet: 23,522											
<b>Property Notes</b>											
		<b>Tax Data</b>	<b>Assessment</b>								
		County/Town Tax: \$2,124.60 (2022) School Tax: \$827.88 (2021) Village Tax: \$3,635.92 (2022)	\$13,800 '21 36,500 '20 513,800 '21								
		<b>Total</b> \$6,588.40	<b>Exemptions</b>								
		County / Town: NO School: NO Star: 0									
		Total tax amount may contain exemptions. * Village Tax does not apply if parcel ID begins with 7 or 8.									
		If property contains exemptions (see above), we ask that you contact the Town (989-1550) or Village tax office (if applicable) to verify actual dollar savings or to determine full tax without any exemptions.									
<b>Recent Permit Information</b>											
<b>Permit Date</b>	<b>Permit #</b>	<b>Price</b>	<b>Description</b>								

8/31/2022

Data shown on this card is representational of the Town's official property record card that can be obtained from the Assessor's Office.



Town of Greenburgh context map is as follows:



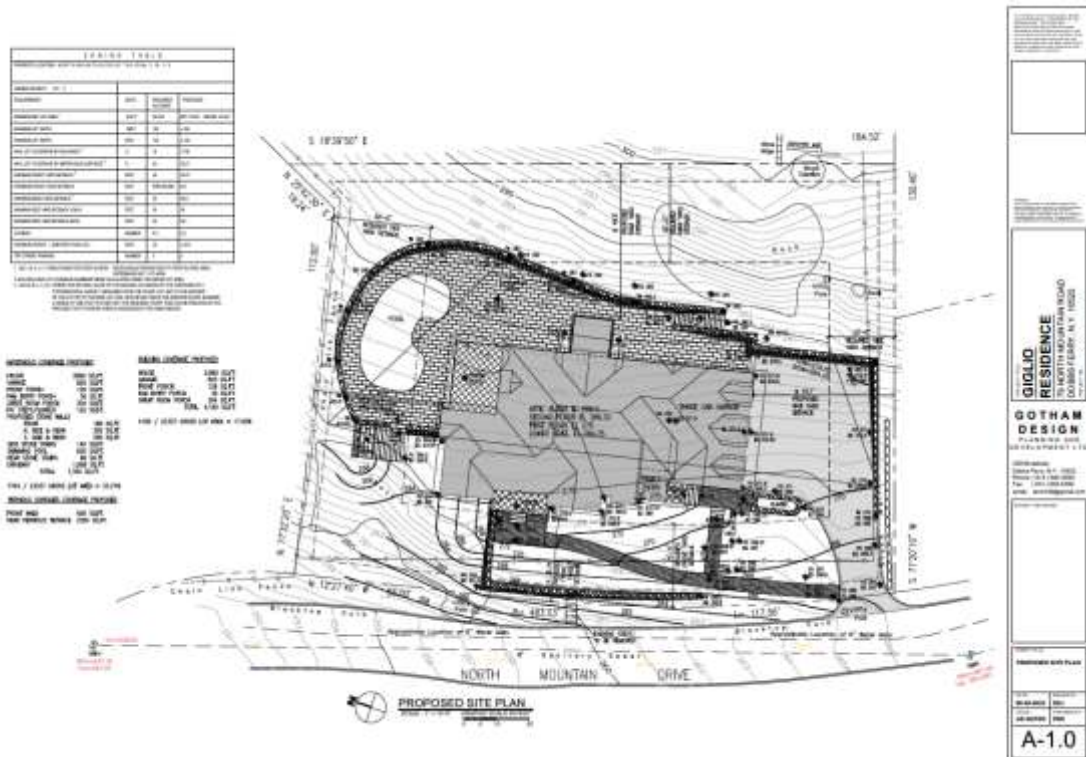
September 14, 2022 Zoning Board of Appeals

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Town of Greenburgh tax map is as follows:



Proposed site plan is as follows:





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Letter dated September 21, 2022 from Ms. Kristen K. Wilson/Attorney to the Zoning Board of Appeals is as follows:

**MarksDiPalermo**  
ATTORNEYS AT LAW  
485 Madison Avenue, 16th Floor  
New York, NY 10022  
Tel: (212) 370-4477  
Fax: (212) 588-0471

**White Plains Office:**  
245 Main Street, Suite 435  
White Plains, New York 10601  
Tel: (914) 844-1909  
Fax: (212) 588-0471

September 21, 2022

**Via E-Mail [droemer@dobbsferry.com](mailto:droemer@dobbsferry.com); [scollins@dobbsferry.com](mailto:scollins@dobbsferry.com)**

Honorable Chairperson and Members of the Board of Appeals  
112 Main Street  
Privileged  
Dobbs Ferry, NY 10522

Re: 0 North Mountain Drive, Dobbs Ferry, New York 10522

Dear Honorable Members of the Dobbs Ferry Board of Appeals,

My firm has been retained by Tanya Giglio, the owner of 0 North Mountain Drive (the "Property") to appeal the building inspector's determination dated July 27, 2022 (the "Determination"). In the alternative, if the Zoning Board of Appeals (the "Board" or "ZBA") does not overturn the Determination, we are seeking an area variance of approximately 23% for the Property to qualify as a building lot (the "Variance Request"). Ms. Giglio is seeking to construct a new single-family home with a three-car garage and swimming pool. The Property is located in the OF-2 zoning district which requires a net site area of 20,000 square feet. The OF-2 district permits single family homes and other accessory uses. The Property consists of 23,337 square feet but, due to steep slope calculations recently performed, the square footage is reduced to 15,241 square feet. The proposed home and swimming pool is otherwise compliant with the other bulk regulations in the OF-2 district.

The threshold interpretation that we are appealing before this Board is whether the Property is a building lot. The Determination states that the Property is deficient in square footage by 4,759.1 s.f. as a result of the application of Village Code § 300-34.A.(2) "Reductions for steep slope areas." This Determination is premised on the finding that the steep slope deductions apply to this Property and render it a non-buildable lot due to the size. For the following reasons, the Zoning Board of Appeals should overturn this Determination and find that the Property is a building lot.

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**THE PROPERTY IS PART OF AN APPROVED AND FILED  
SUBDIVISION PLAT**

The timeline of events clearly establish that the Village's intention was to create this Property as a buildable lot. By way of background, the Property is part of the Hempleman Subdivision that was filed with Westchester County Clerk's office on December 20, 1989. The Hempleman Subdivision was being reviewed and considered simultaneously by the Village with the steep slope law. The steep slope law was adopted approximately three weeks prior to the Hempleman Subdivision. Thereafter, the Planning Board purposefully approved the Hempleman Subdivision, creating two building lots, with the steep slope law in effect. Furthermore, the Planning Board's intentions to create two building lots is supported by the minutes. *See Exhibit D2 to the Application submission.* The Planning Board withheld its approval and reviewed a revised subdivision plan after the steep slopes law was effective for no other reason but to confirm that the proposed subdivision would comply. It is illogical that the Planning Board purposefully approved a two-lot subdivision, after asking for a revised plan, that did not result in legal building lots. Importantly, the steep slopes law has not been amended since the subdivision was approved.

**THE BUILDING ENVELOPE WILL NOT IMPACT THE  
STEEP SLOPES**

As the Board will see from the proposed site plan (Exhibit L to the Application), the proposed building envelope allows the steep slopes to be protected. It avoids the most steeply sloped areas of the Property and allows for an environmentally sensitive development. Not only did the Planning Board specifically contemplate and approve the Property to be improved with a single-family home, the proposed site plan is taking into account the sensitive features and is furthering the intent of the steep slopes law.

**THE PROPERTY HAS BEEN ASSESSED AS A BUILDING  
LOT**

Since 1989, the Village has assessed and treated the Property as a building lot. As you can see on the assessment card, the Village assesses the undeveloped parcel at \$549,800. *See Exhibit I to Application.* The property owners have paid, and the Village has received the benefits of tax payments, as if the Property were a building lot for decades. If the Village did not consider the Property a building lot back in 1989, it would have reduced the assessment to a value reflecting a de minimus value. Instead, the Village itself has treated the Property as a building lot.

Based on the history of the steep slope legislation, the timeline of events, the filing of a subdivision plat, and all the other reasons outlined above, it is clear that the Property was approved as a building lot and that was the Village's clear intention at such time.



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**IN THE ALTERNATIVE, THE ZONING BOARD OF APPEALS SHOULD GRANT THE NECESSARY VARIANCES TO ALLOW FOR THE PROPOSED SINGLE-FAMILY HOME TO BE BUILT**

If the ZBA does not overturn the Determination, the ZBA should grant the necessary variance to allow the Property to be a building lot. The role of the ZBA is to provide a safety valve and flexibility from the rigid enforcement of the zoning ordinance. Salkin, New York Zoning Law and Practice §§ 27:08 & 27:09 [4<sup>th</sup> ed. 2022]. As I know this board is well-aware, the New York Court of Appeals has held the standard for granting an area variance is a balancing test, weighing the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood or community. *Sasso v. Osgood*, 86 N.Y.2d 374 [Ct Ap 995]; *Monroe Beach, Inc. v. Zoning Bd. Of Appeals of Long Beach*, 898 N.Y.S.2d 194, 195 [2d Dept. 2010]. The basic inquiry for zoning boards at all times is whether the strict application of the ordinance in a given case will serve a valid public purpose which outweighs the injury to the property owner. *See Grace v. Palmero*, 182 A.D.2d 820, 582 N.Y.S.2d 284 (2d Dep't 1992).

Under Village Law, the following standards/criteria must be considered and balanced by the ZBA in considering whether to grant the requested variance. For the following reasons, the requested variance should be granted.

- a. Whether an undesirable change will be produced in the character of the neighborhood.

The OF-2 zone is a single family zone that only permits residential homes and normal and customary accessory uses. The application proposes a single family home of a similar size to the homes immediately surrounding the Property. The variance would not have any undesirable change in the character of the neighborhood and would be a complement to the existing homes. The size of the Property is larger than required so there is sufficient area to comply with all necessary setbacks and other bulk regulations. In addition, as the minutes reflect during the subdivision process, the Planning Board looked at the potential impacts to the surrounding neighborhood and concluded that the subdivision complied with the Village's requirements.

- b. Whether the benefit sought can be achieved by some other feasible method

The answer to this question is simply "no" – the need for the variance is essential to allow for the Property to be used for any permitted use. This is not a situation where the applicant is seeking a variance for an oversized home or to build something that is not otherwise permitted.

- c. Whether the requested variance is substantial

The request is not substantial in the context in which it is being sought. Here, the gross area is more than what is required but the calculations of the steep slopes are such that a 23% variance is required. Here, again, the original subdivision was created immediately after the steep slopes law was adopted. The topography of the Property has not changed in the intervening time period but the calculations today result in a net area that is less than what is required.



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- d. Whether the variance will have an adverse effect or impact on the physical or environmental conditions

There will be no adverse impact on the physical or environmental conditions. The Planning Board thoroughly reviewed the potential impacts when it approved the subdivision. In addition, the proposed single family home's building envelope reflects the environmentally sensitive nature of the property.

- e. Whether the need for the variance is self created

The hardship was not self created. The Village adopted the Steep Slopes Law and has removed all reasonable use of the property. In this Board's decision, this factor tips undoubtably in favor of the Owner.

**IF A VARIANCE IS NOT GRANTED, THERE IS NO ECONOMIC USE OF THE PROPERTY AND A REGULATORY TAKING WILL HAVE BEEN ESTABLISHED**

Here, if the ZBA does not overturn the Decision and does not grant the Variance Request, the ZBA will have effectively taken all use of the Property and will be subject to a regulatory takings proceeding. The test to help determine a regulatory taking when a per se taking is not demonstrated (Factors from *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104 (1978)) consists of: 1) The economic impact of the regulation – “mere diminution in the value of the property, however serious, is insufficient to demonstrate a taking” *Gazza v. New York State Dep't of Env't Conservation*; 2) The extent to which the regulation has interfered with reasonable investment-backed expectations – reasonable investment-backed expectation must be more than a unilateral expectation or an abstract need. *Gazza v. New York State Dep't of Env't Conservation*; and 3) The character of the governmental action – “its effects are so complete as to deprive the owner of all or most of his interest in the subject matter to amount to a taking” *Gazza v. New York State Dep't of Env't Conservation*.

A taking may be established, “[o]nly when the evidence shows that the economic value, or all but a bare residue of the value, of the parcel has been destroyed.” *Spears v. Berle*, 48 N.Y.2d 254 (2d Dep't 1979). Moreover, “it is clear that the mere diminution in the value of property, however serious, is insufficient to demonstrate a taking.” *Id.* Thus, “a taking may be found only if an onerous burden forces property owners alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Armstrong v. United States*, 364 U.S. 40 (1960). In order to prove that the denial of a permit constitutes a regulatory taking, the petitioner must demonstrate that his property has “but bare residue of its value” due to the denial of the building permit application. *Gazza v. New York State Dep't of Env't Conservation*, 89 N.Y.2d 603, 610 (1997). That being said, the court must find that the permit denial is supported by substantial evidence and whether the restriction constitutes an unconstitutional taking requiring compensation. *Id.* Further, the fact that a regulation deprives a property of its most beneficial use does not render it unconstitutional. *Id.* And, the value of the property after regulation depends on what remaining uses are available to the property owners. *Friedenburg v. New York State Dep't of Env't Conservation*, 767 N.Y.S.2d 451 (2003). Here, the only way the owner can use the Property is if the Variance Request is granted. Without a determination that the Property is buildable or the granting of the variance, nothing can be built on the Property and there is no economical use.

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**Conclusion**

All outward indices demonstrate clearly that the Property is a buildable lot. Considering the historical context, the filed Village documents, the treatment by the assessor's office, and the timing of the Planning Board's actions, the Property was created and intended to be a building lot. As such, this Board should overturn the Determination. In the alternative, the applicant has clearly met the requirements set forth for an area variance. The Variance Request will not result in an undesirable change, is necessary to allow any development of the Property, is not significant, will not harm the environment and the need was not self-created. All of the factors tip in favor of the Variance Request being granted.

Respectfully submitted,

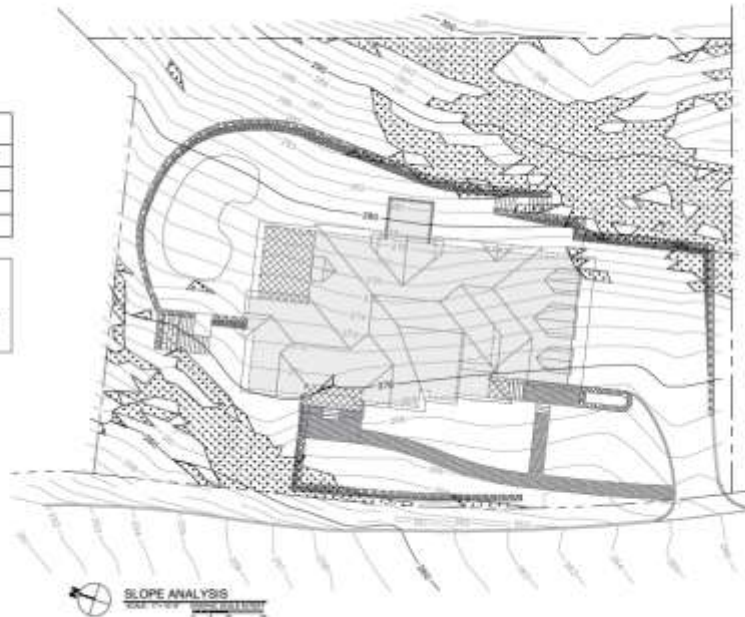
/s/

Kristen K. Wilson

Slope analysis is as follows:

SLOPE ANALYSIS			
WATCH	RANGE	AREA	PERCENT
	0% - 10%	18897.37 SF	81.42%
	10% - 15%	4339.81 SF	18.58%
	TOTAL	23,237.18	100%

**PROCESS DESCRIPTION:**  
The information is derived from a 2-D topographic map (contour interval 2 feet) and a digital elevation model (DEM) of the property. The DEM was created from a 1/4" = 1' scale aerial photograph. The DEM was then processed to create a 3-D surface model of the property. The 3-D surface model was then processed to create a 2-D slope analysis map. The slope analysis map shows the slope of the property in percent. The slope analysis map is a 2-D map of the property showing the slope of the property in percent. The slope analysis map is a 2-D map of the property showing the slope of the property in percent. The slope analysis map is a 2-D map of the property showing the slope of the property in percent.



**LAURA R. RUFFALO**  
Professional Engineer  
State of New York  
No. 10022

**GIGLIO PROPERTY**  
175 NORTH MOUNTAIN ROAD  
PO BOX 1000  
POCONO, NY 12862

**GOTHAM DESIGN**  
ARCHITECTS & PLANNERS

175 NORTH MOUNTAIN ROAD  
PO BOX 1000  
POCONO, NY 12862  
Phone: 518.839.8800  
Fax: 518.839.8801  
www.gothamdesign.com

**SCALE**  
AS SHOWN

**DATE**  
10/12/22

**BY**  
KRW

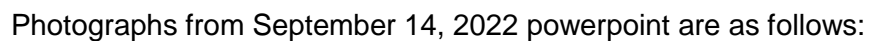
**REVIEWED**  
KRW

**APP. NO.**  
175

**A-1.2**









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**September 14, 2022 Zoning Board of Appeals**



**September 14, 2022 Zoning Board of Appeals**



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September 14, 2022 Zoning Board of Appeals



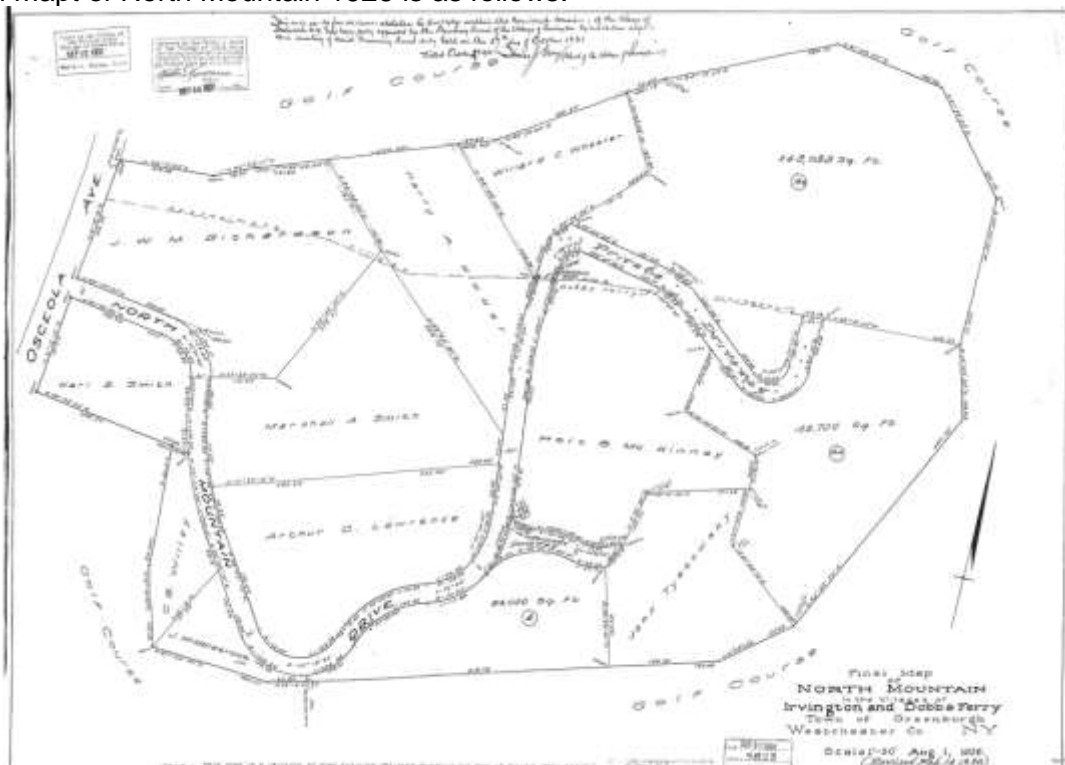
September 14, 2022 Zoning Board of Appeals

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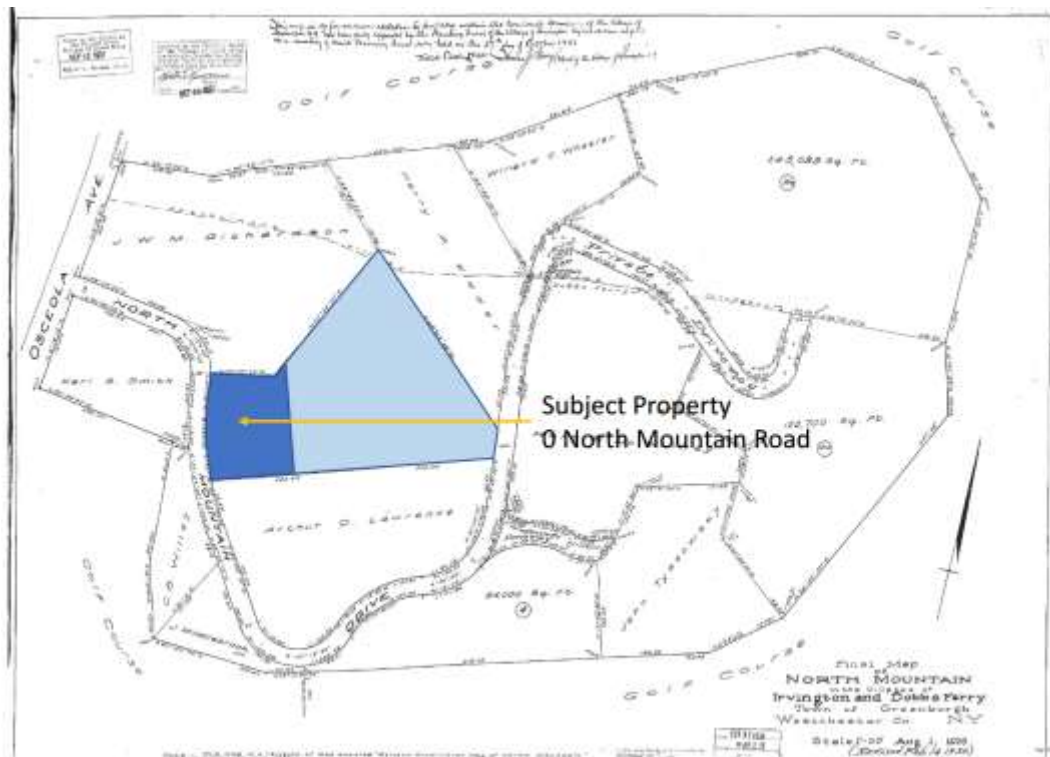
September 14, 2022 Zoning Board of Appeals

Subdivision map of North Mountain 1926 is as follows:

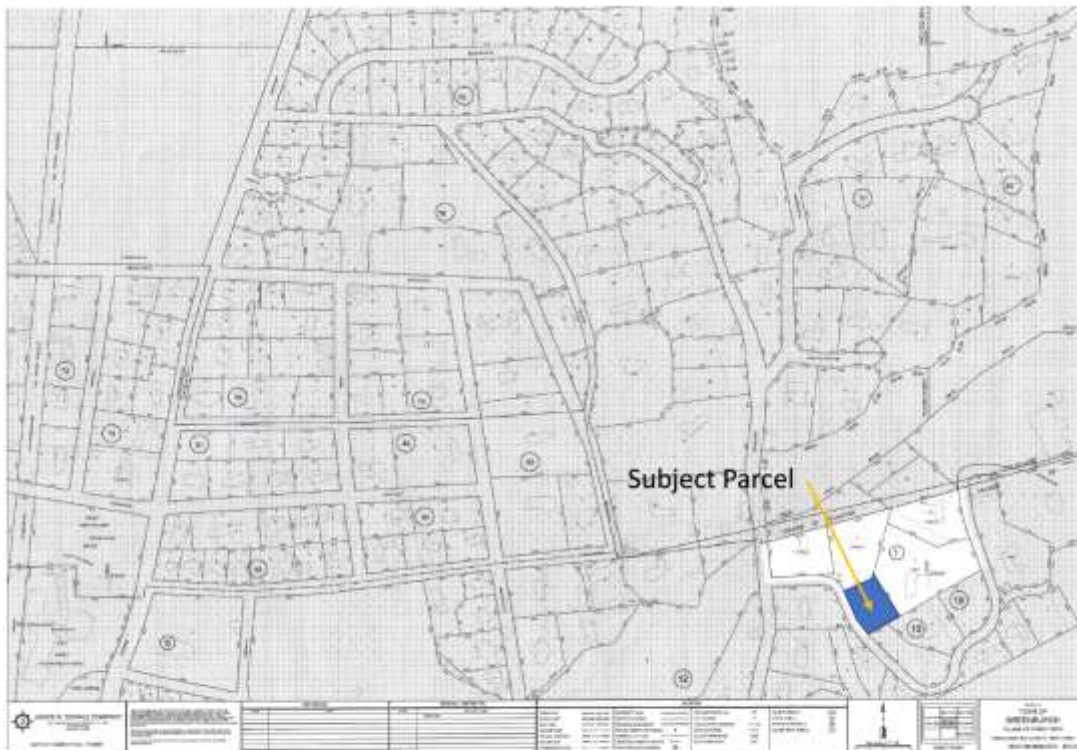




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September 14, 2022 Zoning Board of Appeals



September 14, 2022 Zoning Board of Appeals



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Letter dated September 21, 2022 from Mr. Paddy Steinschneider to Mr. Dan Roemer/Building Inspector is as follows:

**GOTHAM**

Padriac Steinschneider  
Gotham Design & Community Development Ltd.  
329 Broadway  
Dobbs Ferry, New York 10522  
(914) 693-5093 • Fax: (914) 693-5390  
(914) 906-4802 cell • [arch329@gmail.com](mailto:arch329@gmail.com)

September 21, 2022

Dan Roemer, Building Inspector  
Dobbs Ferry Building Department  
112 Main Street  
Dobbs Ferry, New York 10522

Re: 0 North Mountain Drive

Dear Mr. Roemer:

This letter is to request the continuation of the application pending before the Zoning Board of Appeals for 0 North Mountain Drive, also known as Tax Lot 3.10-1-3. The Public Hearing was opened at the September 14, 2022 meeting of the Zoning Board of Appeals (ZBA). The owner of the property is seeking permission to develop this property as a single family building lot.

The subject parcel has a site area of 23,337 square feet and is located in the OF-2 zoning district, which requires 20,000 square feet for a building lot. While the gross area of the subject parcel has more than the required building lot area, Dobbs Ferry requires a deduction for steep slopes and, with these deductions, the parcel does not provide the required net area of 20,000 square feet.

An analysis of the slopes on the site has been prepared including computations for the area of the site that does not exceed 15% slopes, the area of the site that exceeds 15% but is less than a 25% slope, and the area of the site that has a 25% slope or greater. The analysis indicates that 3,184 square feet of the site, or 13.65%, does not exceed 15%; 9,819 square feet of the site, or 42.1%, is greater than 15%, but less than 25%; and 10,333 square feet, or 44.3% at 25% or greater.

To determine the net lot area, Section 300-34.A.(2) in the Village Code stipulates that 25% of the area exceeding 15% but less than 25% be deducted from the gross site area, and that 50% of the area with a slope of 25% or greater be deducted from the gross site area. This results in 2,909.5 square feet being deducted for the area between 15% and 25% and 5,186.6 square feet being deducted for the area 25% or greater. Subtracting these two numbers from the gross site area of 23,337 square feet results in a net site area of 15,240.9 square feet.

While we understand that a Site Plan Review will be required for this project and that the mitigating measures that will eliminate adverse environmental impacts from the development of this property with steep slopes will be the purview of the Planning Board, we anticipate that the process for obtaining approvals for the construction of a home on this property will need to start with the ZBA.

**We are appealing the decision made by the Building Inspector that this is not a building lot.** We contend that the Planning Board knowingly and intentionally approved this parcel as a building lot by its decision on October 5, 1989. This property was the first subdivision approved by the Planning Board following the adoption of the Steep Slopes Ordinance by the Village Board, changing the Zoning Ordinance. The Planning Board was directly engaged with the Board of Trustees in the deliberations over the adoption of this ordinance and was well versed in its requirements.

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Letter to Dan Roemer, Building Inspector  
Re: 0 North Mountain Drive  
September 21, 2022  
Page 2 of 3.

The approval of this parcel as a building lot was intentionally postponed by the Planning Board one meeting specifically so that it would be approved following the adoption of the Steep Slopes Ordinance at the Public Hearing conducted by the Board of Trustees, which voted to adopt this change to the Code on September 19, 1989. The plat map filed with the County Records was signed by Ed Plotkin, Chair of the Planning Board. Mr. Plotkin was a world reknown engineer and certainly understood steep slopes.

There is no record of how the determination of compliance with Steep Slopes was done, only that the Planning Board minutes confirm that this was discussed and that it was agreed that the lot was considered compliant. Since the Dobbs Ferry Village Code specifically empowers the Planning Board to waive dimensional requirements, as well as procedures, it is difficult to confirm how compliance was determined. The record is clear that this parcel was approved as a building lot in a Public Hearing by the Dobbs Ferry Planning Board, the duly empowered Board with the authority to do so.

In the event that the ZBA decides that the Building Inspector was justified in his determination that this parcel is not a compliant building lot, whether due to an error made by the Village or a change over time in the practice for how steep slopes should be computed, **we request that the ZBA grant a dimensional variance to permit a parcel with a net area of 15,240 square feet to be developed with a single family home.**

It is our understanding that the Village Attorney has opined that it is proper to first request that the ZBA overturn the decision made by the Building Inspector and then, if that remedy is not successful, to grant a variance specifically to provide relief from the strict interpretation of the Code so that this property can be used for the purpose that the lot was created.

The following documents have been submitted in support of this application:

- A. The Application to the Zoning Board of Appeals fully executed and dated June 17, 2022.
- B. The Short Form Environmental Assessment Form Part 1 fully executed and dated June 17, 2022.
- C. The LWRP Consistency Review Coastal Assessment Form fully executed and dated June 17, 2022.
- D. A Memorandum prepared by Gotham Design Planning & Development dated September 21, 2022, which provides the details and history of the creation of the subject parcel and includes the copies of the Minutes from the pertinent meetings of the Planning Board, the Board of Trustees, and the Round Table.
- E. A copy of the Deed, dated September 29, 2017, confirming Tanya Giglio as the owner of the subject parcel.
- F. A copy of the Establishment of an Escrow Account dated August 22, 2022.

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Letter to Dan Roemer, Building Inspector  
Re: 0 North Mountain Drive  
September 21, 2022  
Page 3 of 3.

- G. A copy of the Topographic Survey prepared for the subject property by the Munson Company, dated August 3, 2018, with a note affixed that it is from the "Subdivision Map Prepared for Philip & Colleen Hempleman," filed December 20, 1989 as County Clerk Map No.24033.
- H. A copy of the Subdivision Map prepared for Philip & Colleen Hempleman by Charles Riley, Land Surveyor, dated as completed July 21, 1989 and revised October 5, 1989, signed by the Chair of the Planning Board and by the Commissioner of Health with the stamp from the County Records affixed indicating that it was filed on December 20, 1989 and identified as No.24033.
- I. A copy of the Town of Greenburgh Property Card identifying the subject parcel as Parcel ID 3.10-1-3 designating it as "Residential Vacant Land" with an assessed value of \$549,800.
- J. A copy of 0 North Mountain Drive on a location map taken from the Town of Greenburgh GIS, dated September 14, 2022.
- K. A copy of the Town of Greenburgh Tax Map identifying the subject parcel as a separate property with frontage on North Mountain Drive, dated July 1, 2007.
- L. A copy of Sheet A-1.0 "Proposed Site Plan" prepared by Gotham Design Planning & Development for Tanya Giglio, dated August 5, 2022, signed and sealed by Laura Wakefield, R.A.
- M. Copies of Sheets A-1.1 and A-1.2 "Slopes Analysis" prepared by Gotham Design Planning & Development for Tanya Giglio, dated June 16, 2022, signed and sealed by Laura Wakefield, R.A.
- N. Copies of the same Sheets A-1.1 and A-1.2 "Slopes Analysis" but with the steep sloped areas designated in color, prepared by Gotham Design Planning & Development for Tanya Giglio, dated June 16, 2022, signed and sealed by Laura Wakefield, R.A.
- O. Six 11x17 sheets with four photographs each showing the subject property and its surrounding context.
- P. A copy of the "Final Map of North Mountain dated August 1, 1926 and revised February 14, 1930, showing the subject property imposed on the original parcel for context.

This application will be renoticed by certified mailing today. Please let me know if you have any questions or if any additional information is required.

Thank you for your time and attention.

Sincerely,



Paddy Steinschneider  
Project Design Coordinator



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Ms. Kristen Wilson/Attorney, Mr. Paddy Steinschneider/Gotham Design and Mr. Bill Ocasio were present to represent the application.

Chairman Hofmann acknowledged receipt of the following correspondence: Letter dated September 15, 2022 from Joe and Therese Valvano/8 Osceola Avenue; and a letter dated September 26, 2022 from Chris and Carrie O'Day/62 North Mountain Drive.

Chairman Hofmann said North Mountain Drive is similar to other streets in the area in that there are no curbs and no storm drains, which typically take/handle water runoff.

Ms. Dickson discussed the memo that she sent to the Board. Ms. Dickson said she recommended that the Board proceed to the alternative request being asked. Ms. Dickson said any decision on the application could be in a written resolution and the Board's decision to move forward could be incorporated by Ms. Monastra in a written resolution at the end of the process. Ms. Dickson said there is no reason to bifurcate, the Board can consider it, they can pose the question to the applicant to see if there's something that would tend to negate what this discovery was by Mr. Boomer, and he is here so he can speak to it. Ms. Dickson said the applicant is welcome to respond to that allegation which resulted from these meetings and the discovery of the additional language in the Code.

Ms. Wilson addressed the Board regarding the request to overturn the Building Inspector's determination and find that this lot is grandfathered in as a building lot. Ms. Wilson said that Mr. Steinschneider had a powerpoint presentation to allow the Board to understand the property a little bit more, that she would like for him to present as well.

A discussion was held and Ms. Wilson and Mr. Steinschneider addressed questions from the Board.

Ms. Dickson said the denial letter does not imply that it is an unbuildable lot. Ms. Dickson said the denial letter says it doesn't meet the Code, therefore you have to go to the Zoning Board to acquire an area variance. Ms. Dickson said arguing ad fin item that you are looking to overturn an interpretation or a determination seems to delay the inevitable whereby even if you went to the Planning Board at this point, they would be restricting building on certain portions of this lot. Ms. Dickson said it seems logical to her that the variance is the appropriate relief. Ms. Dickson said she doesn't think that the Zoning Board or even the Building Inspector denies that it's buildable in some way, they are saying under the current Code it needs certain variances in order to qualify, for this permit, for this proposed improvement, etc.

Mr. Steinschneider addressed the Board regarding the method of measurement that was defined in 2010, steep slopes and setbacks.

The discussion continued and Ms. Wilson and Mr. Steinschneider addressed questions from the Board.

Ms. Wilson discussed the proposed application and displayed the following slides:

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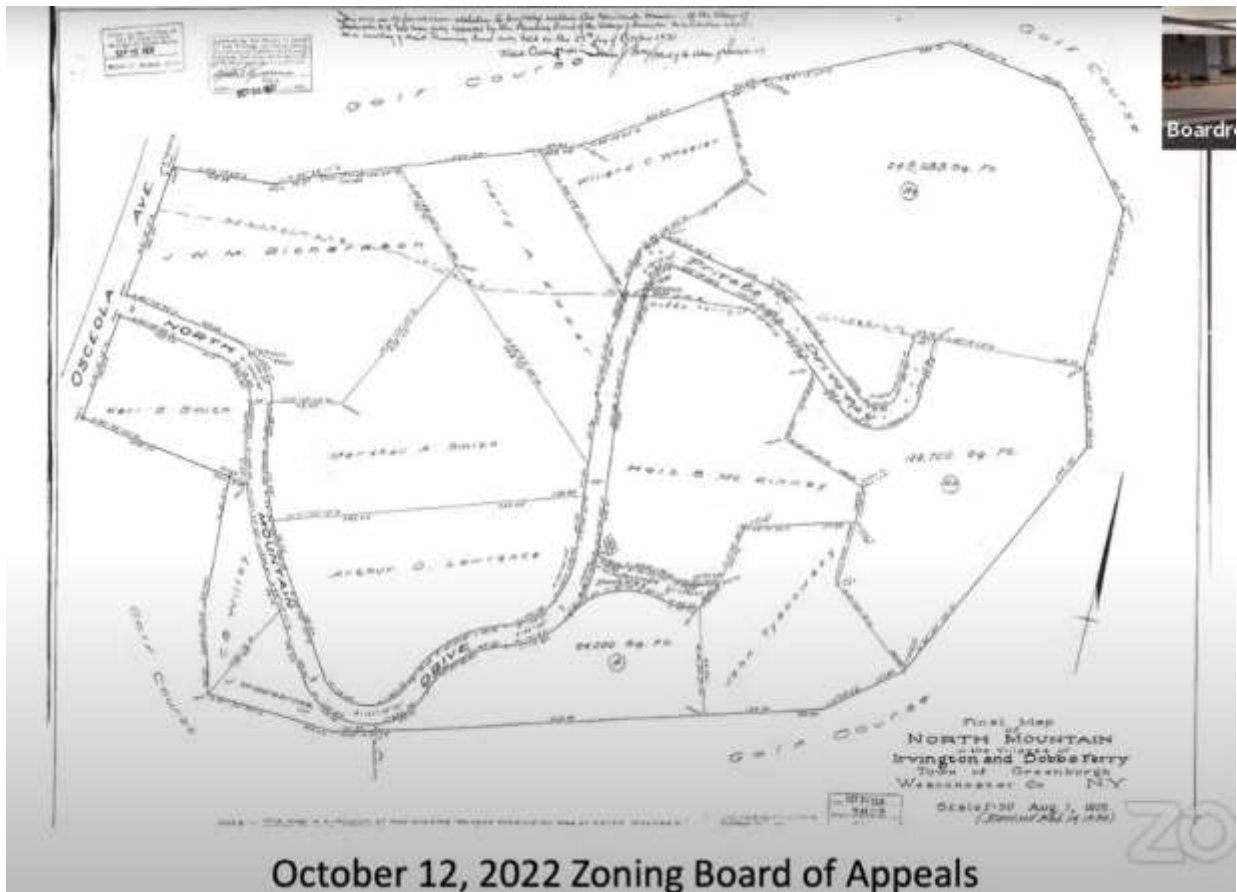
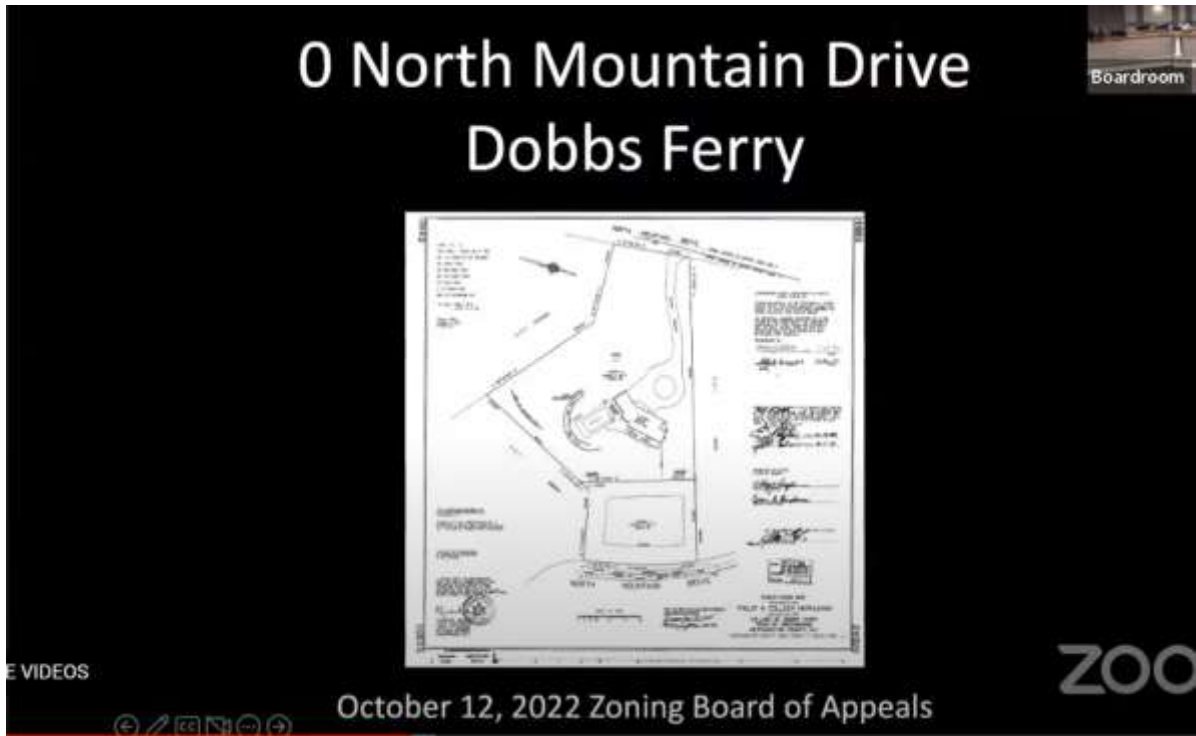
### Lot Comparison - By Slope

Address	Lot Area	Slope
74 North Mountain Drive	0.47 acre	8.9%
2 North Mountain Drive	0.93 acre	16.2%
72 North Mountain Drive	0.52 acre	17.1%
79 North Mountain Drive	1.84 acre	24.3%
0 (80) North Mountain Drive	0.67 acre	25.6%
65 North Mountain Drive	0.39 acre	25.9%
62 North Mountain Drive	0.46 acre	25.9%
0 (77) North Mountain Drive	0.67 acre	25.9%
77 North Mountain Drive	0.81 acre	25.9%
0 (70) North Mountain Drive	0.64 acre	26.0%
0 (77) North Mountain Drive	0.74 acre	37.2%

### Lots Compliant with Steep Slopes

October 12, 2022 Zoning Board of Appeals

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Chairman Hofmann said in the past when we have had requests for such variances, we have been the body that has done the work on sight lines, making sure that the size of the house didn't obstruct sight lines, that the plantings didn't obstruct sight lines and we were primarily involved with a safety issue and that was well within our capability. Charimrn Hofmann said while this is probably also within our capability, he thinks it's more in the bailiwick of the Planning Department, because water and rock, as well as sight lines are very substantial issues. Chairman Hofmann said he thinks it makes more sense to go to the Planngng Board first and then to come back to us with a house that's properly sized with ingress and egress that the Planning Board thinks is safe, and if they thinks it's safe, we will likely think its safe.

Ms. Wilson said she would defer this to Ms. Dickson. Ms. Wilson said they are at a threshold impass here because she doesn't even feel that they can go to the Planning Board and say we can put a single family home on here unless we have a variance with respect to the lot size.

Ms. Dickson said she disagrees and thinks that the important aspect of this is really to look at the impacts and the proposed site plan. Ms. Dickson said she thinks it's important to take advantage of that technology and the skills with the Consultants to the Planning Board to determine the appropriate size, location, placement, vis-à-vis steep slopes and she thinks it would be a given that a much easier path to the variances you seek at this point. Ms. Dickson said she thinks looking at this in a vacuum without really understanding the impacts of the neighborhood and based upon the development you're proposing, it really is appropriate in this case to get a recommendation and the expertise information necessary for this Board to move forward. Ms. Dickson said a blanket 23 percent variance without understanding the impacts, especially given the comments from the neighbors and the amount of flooding and like your Zoning Board has said to you, sight lines are a problem, the slopes are obviously a problem, the runoff is a problem, there are not curbs or sewers here so perhaps it's something that the plan uniquely, is in the wheelhouse of the Planning Board and it would behoove all of us to be able to move forward with a real hard look at the impacts here.

Ms. Wilson said each Village does it a little differently. Ms. Wilson asked Ms. Dickson if she would consider the Planning Board having jurisdiction and being able to hear an application, despite us not officially having the proper square footage based on the Building Inspector's determination.

Ms. Dickson said she thinks that in this case, a parallel tract would benefit everyone and it would really provide the Zoning Board with the necessary information to feel assured that the 23 percent variance is appropriate under the circumstances. Ms. Dickson said she thinks that the actions could happen simultaneously, but she thinks at this point that everyone would benefit and a memo referring this for recommendation and report, would help both Boards to see this in a larger picture and she thinks it would also help your property owner.

Mr. Gutman said he agrees and that it's the only sensible way for us to proceed where the key issue is whether or not there's an adverse impact and he thinks that's really an engineering question that we would be able to intelligently assess with a recommendation from the Planning Board, so I think it makes a great deal of sense to refer to them.

Ms. Dickson said she thinks there's a large unknown at this point and the unknown really weighs heavily upon the balancing of the equities here. Ms. Dickson said she thinks it's hard for the Zoning Board to grasp what the impact versus the benefit is and she thinks everyone would find it a much easier path to have the advice of the technical experts that the Village has retained. Ms. Dickson said either that or she would recommend wholeheartedly that the Zoning Board engaged the services of the Engineer at this

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point prior to moving forward because she doesn't think that they have enough information in the record at this point to determine what the detriment is, the benefit weighed against the detriment is an unknown.

Ms. Wilson said if that is the case if we have the opportunity we would avail ourselves of that to go to the Planning Board while keeping these hearings or this hearing kind of open in advance until such time the Planning Board is ready to make a recommendation for a report back to the Zoning Board.

Ms. Dickson said she thinks that that would be great, if the Chair is amenable to that.

Chairman Hofmann said yes, absolutely, because what you are asking is a large ask which could be ameliorated by the proper project.

Ms. Wilson said she would respectfully ask if Chairman Hofmann would adjourn the hearing, she does not want it closed.

Chairman Hofmann said we'll continue the public hearing until they are ready to come back.

Ms. Dickson said if the Board is not able to adjourn the public hearing to a date certain, the applicant would be required to re-notice.

Ms. Wilson suggested adjourning the public hearing to the December Zoning Board meeting. Ms. Wilson said she can give the Board an update and if they need more time, it can be extended to a more certain date at that time.

Ms. Dickson said the date of the meeting would be December 14, 2022.

Chairman Hofmann said he will prepare something for the Planning Board regarding what the Zoning Board's concerns are.

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**2. 143 Ashford Avenue – Public Hearing for proposed alterations and additions to home**

Plan submittal form is as follows:

**Plan Submittal Form**

Address: 143 ASHFORD AVE, DOBBS FERRY, NY 10522

Application #: \_\_\_\_\_

Project: ADDITIONS AND ALTERATIONS

Name: MARGO FISHOV

Email: margofishov@gmail.com

Phone: 347-546-7649

Plans attached are being submitted for (check appropriate box):

- ☐ Building permit application 1 PDF copy & 2 paper copies ¼ scale
- ☐ Amendment to an application or permit, 2 sealed copies
- ☐ Final As Built to close permit, 1 sealed copy
- ☐ Final survey to close permit, 1 sealed copy

Plans attached are submitted at the direction of the Building Inspector for review by the following board (check all that apply):

- ☐ BOT- 1 PDF copy + 5 paper copies ¼ scale
- ☐ PB - 1 PDF copy + 4 paper copies ¼ scale
- ☒ ZBA - 1 PDF copy + 4 paper copies ¼ scale
- ☐ AHRB – 1 PDF copy + 2 paper copies ¼ scale

Received Stamp:





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**RULES OF THE ZONING BOARD OF APPEALS  
VILLAGE OF DOBBS FERRY, NEW YORK**

1. Regular meetings of the Board are held on the second Wednesday of each month. Three members constitute a quorum for the transaction of any business.
2. Special meetings may be called by the Chairman at any time. Notice of such Special Meeting shall be given by mailing a notice thereof, addressed to each member at the address within the Village furnished by him for that purpose, at least three days before such meeting.
3. **Any application to the Zoning Board of Appeals shall be made on forms prescribed by this Board. Four copies of the application must be filed with the Clerk of the Board, no later than 2:00 p.m., twenty-one (21) days prior to the date of the meeting at which the application shall be considered. The applicant shall be required to notify all owners of property within two hundred (200) feet of the subject property by certified mail, return receipt requested, at least ten (10) days prior to the meeting. Certification of noticing must be submitted to the Village Clerk's Office no later than 2:00 p.m. on the Friday preceding the meeting.**
4. Every application or appeal must be accompanied by:
  - a. An accurate plot plan to scale, showing location of all existing structure.
  - b. Drawings showing the exact location, dimension and nature of construction of all proposed structures.

These requirements will ordinarily be best met with surveys and architect's drawings. The Board may require that surveys and/or drawings be prepared and signed by duly accredited surveyors, engineers, or architects.
5. The applicant is required to show proof of title to or legal interest in the premises by deed, or contract of sale, or other document.
7. The applicant is required to submit a completed Environmental Assessment Form in accordance with the State Environmental Quality Review Act (SEQR). The Department of Environmental Conservation has made this form available on its website [www.dec.state.ny.us](http://www.dec.state.ny.us).
8. The applicant shall pay all fees and charges as prescribed from time to time by the Board of Trustees. By resolution of the Board of Trustees adopted on November 1, 1983, said fees and charges are as follows:
  - a. Two hundred dollars (\$200) upon filing the application.
  - b. Other expense reasonably necessary for review or processing of the application.

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APPLICATION TO ZONING BOARD OF APPEALS  
VILLAGE OF DOBBS FERRY

Note: Four copies of the application must be filed with the Clerk of the Board, no later than 2:00 p.m., twenty-one (21) days prior to the date of the meeting.

Date Filed: 9/17/22  
Applicant's Name: MARGO FISHOV Telephone: 347-546-7649  
Property Location: 143 ASHFORD AVE, DOBBS FERRY, NY 10522  
Sheet: 390 Block: 55 Lots/Parcel: 14

The undersigned applicant requests a hearing before the Zoning Board of Appeals based on the following: (check one)

☒ Appeals decision of Building Inspector \_\_\_\_\_ ☐ Special Permit

Every application or appeal must be accompanied by an accurate plot plan to scale showing location of all existing structures, and also drawings showing the exact location, dimensions, and the nature of all proposed structures. These requirements will ordinarily be best met with surveys and architect's drawings. The Board may require that surveys and/or drawings be prepared and signed by duly accredited surveyors, engineers, or architects. Applicant is required to show proof of title to or legal interest in the premises, by deed or contract of sale, or other document. This application or appeal is made pursuant to the authorization contained in the Building Zoning Ordinance:

Article: X Section: 300-35 Subdivisions: D

The basis of the relief sought by the undersigned pursuant to the provisions of the Building Zoning Ordinance is as follows: (Set forth briefly all pertinent facts and use additional sheets if necessary).

  
Applicant

STATE OF NEW YORK  
COUNTY OF WESTCHESTER ) ss:

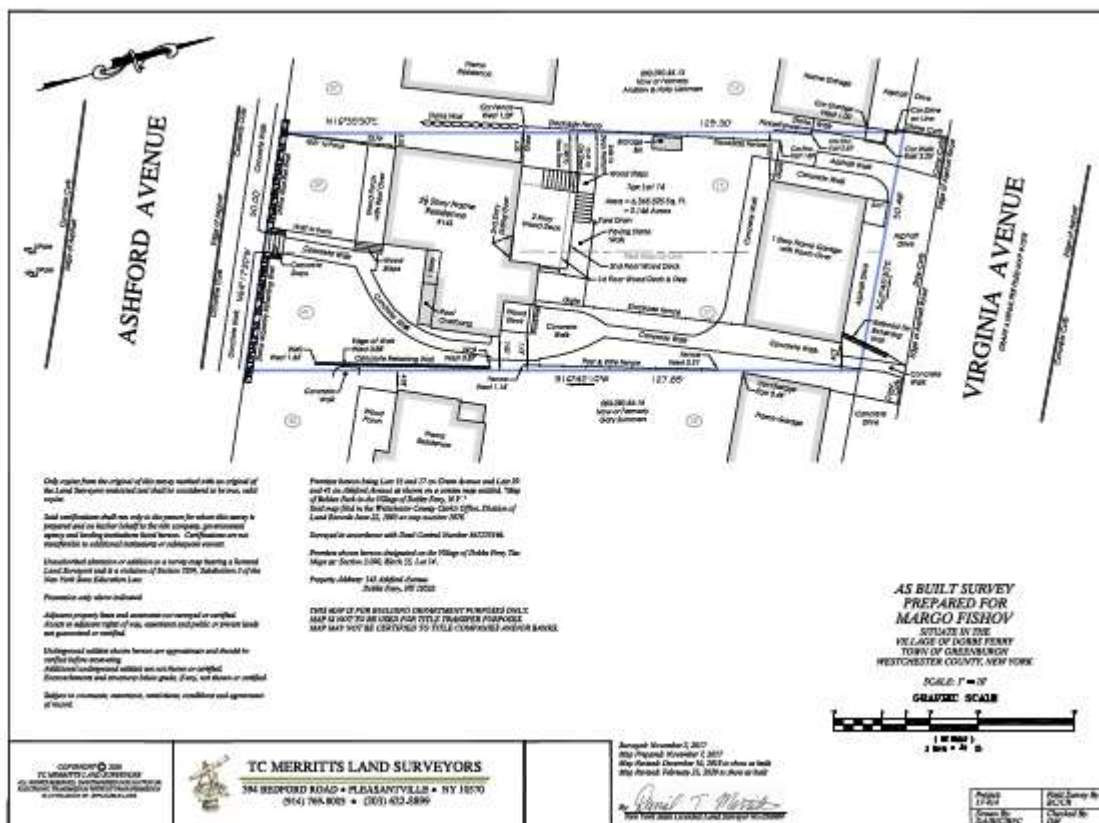
On this 13th day of September, 2022, before me personally came Margo Fishov who came duly sworn deposes and says that he/she read the foregoing application and knows the content thereof and that the same is true to his/her own knowledge.

  
Notary Public

KATHI FISHOV  
Notary Public, State of New York  
No. 01F14905191  
Qualified in Queens County  
Commission Expires Sept. 28, 2025

1.	Copy of deed or contract of sale	<input checked="" type="checkbox"/>
2.	Application completely filled out	<input checked="" type="checkbox"/>
3.	Environmental Assessment form	<input checked="" type="checkbox"/>
4.	Survey of property	<input checked="" type="checkbox"/>
5.	Plans showing profiles of proposed alteration/addition	<input checked="" type="checkbox"/>
6.	Copy of denial from Building Inspector or Architectural Board of Review	<input checked="" type="checkbox"/>

Survey is as follows:

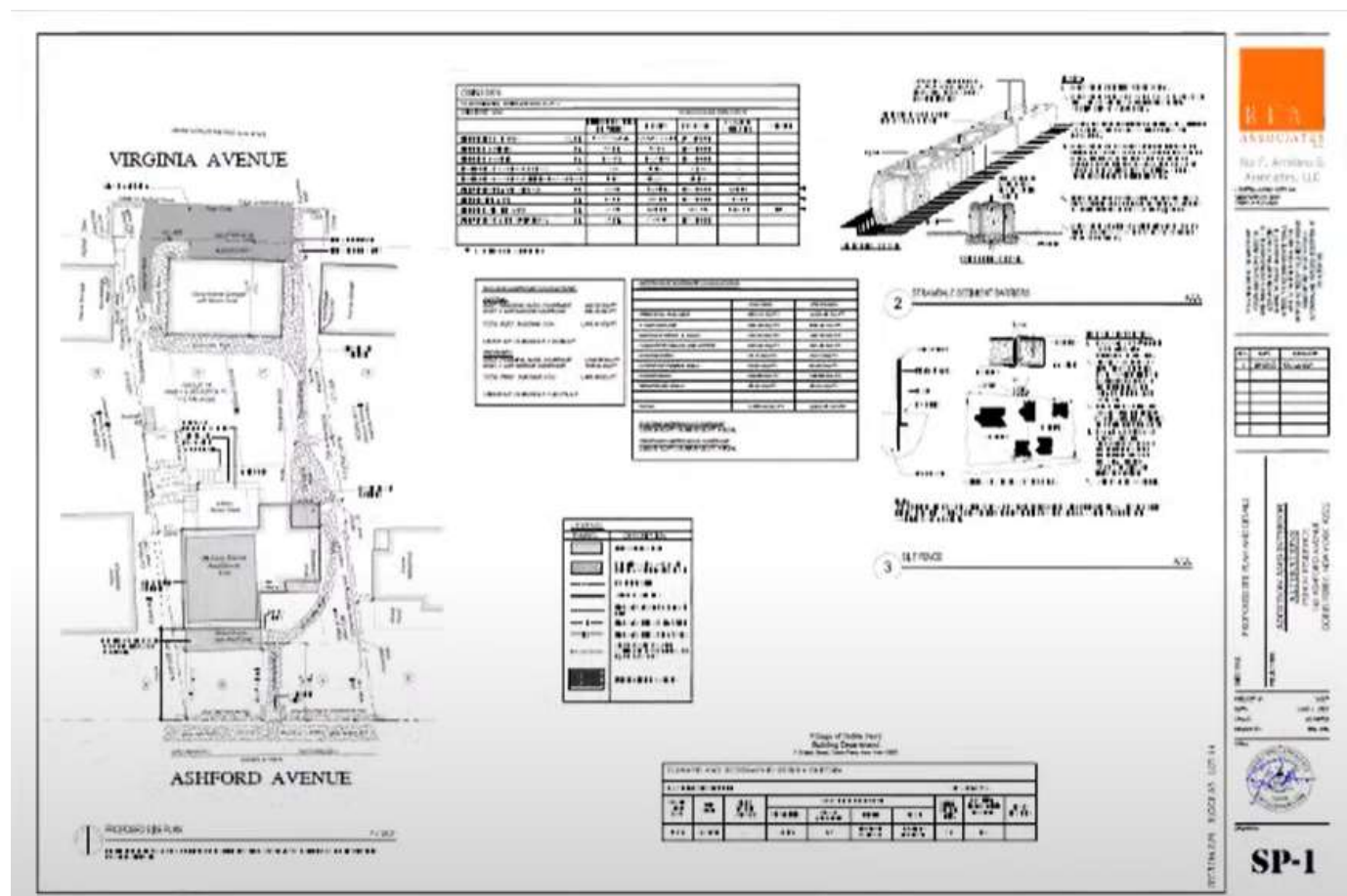


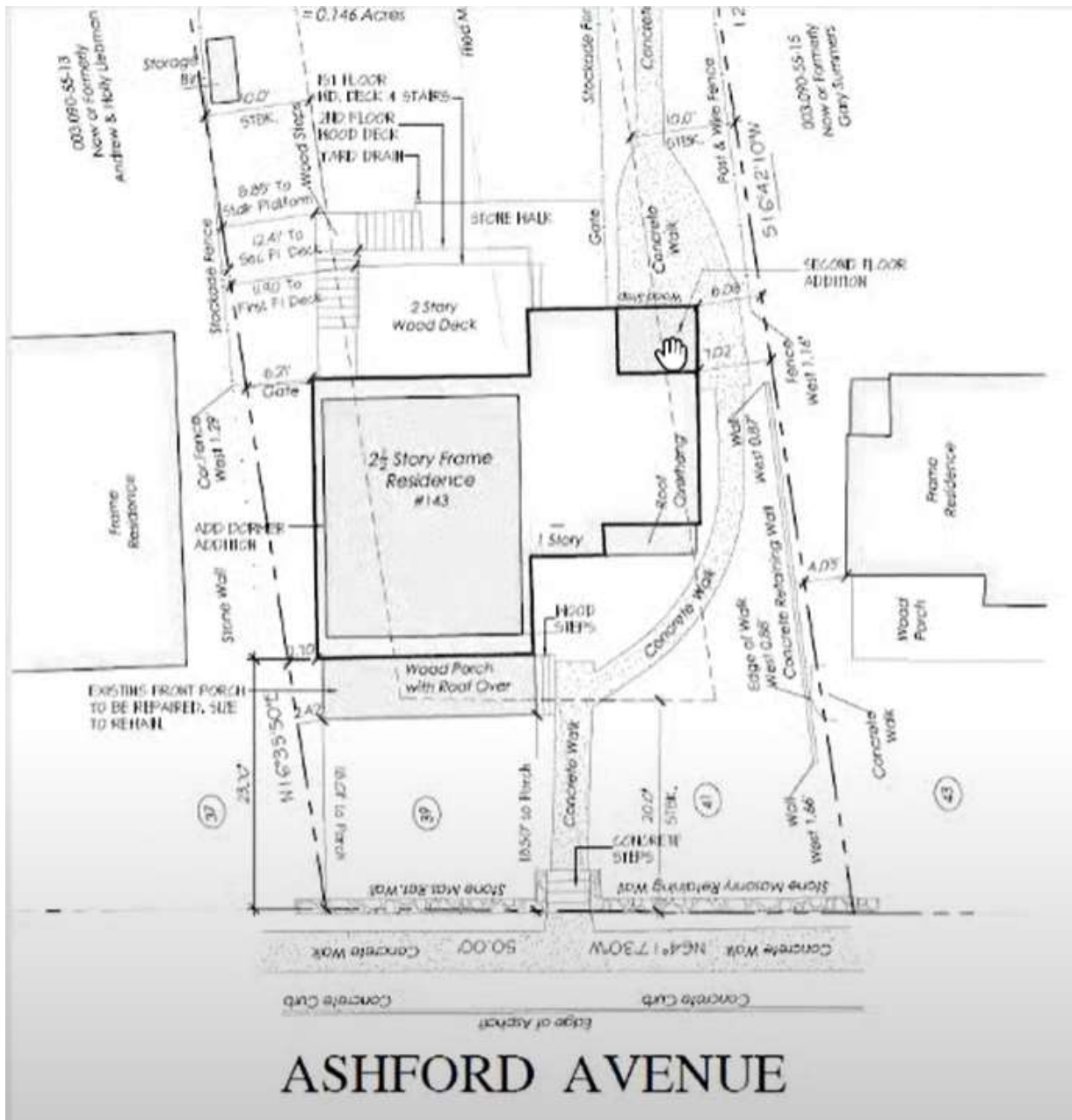


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Mr. David Arango was present to represent the application.

Mr. Arango discussed the proposed application and displayed the following drawings:





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ZONING DATA						
TAX MAP DESIGNATION: SECTION 3.080 BLOCK 55 LOT 14						
ZONING DISTRICT: N084						
141 ASHFORD AVENUE, DOBBS FERRY, NY						
		MINIMUM	MAXIMUM	EXISTING	PROPOSED	EXIST. NON-COMPLIANCE
		REQUIREMENTS				
MINIMUM NET LOT AREA	SQ. FT.	5,000 SQ. FT.	6,365.53 SQ. FT.	NO CHANGE	--	--
MINIMUM LOT WIDTH	FT.	50 FT.	50 FT.	NO CHANGE	--	--
MINIMUM LOT DEPTH	FT.	100 FT.	127.84 FT.	NO CHANGE	--	--
MAXIMUM LOT COVERAGE (BLDGS)	%	27%	25.4%	26.17%	--	--
MAXIMUM LOT COVERAGE (IMPERVIOUS SURFACE)		54%	45.2%	45.4%	--	--
MINIMUM FRONT YARD SETBACK	FT.	20 FT.	18.2 FT.	NO CHANGE	1.14 FT.	--
MINIMUM SIDE YARD	FT.	10 FT.	2.42 FT.	NO CHANGE	7.58 FT.	--
MINIMUM BOTH SIDE YARD	FT.	20 FT.	9.44 FT.	8.50 FT.	10.56 FT.	--
MINIMUM REAR YARD (MAIN BLDG)	FT.	25 FT.	67.78 FT.	NO CHANGE	--	--

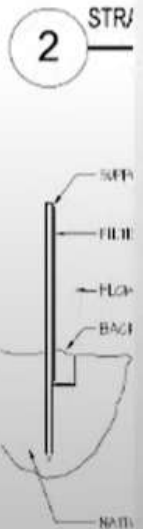
-- EXISTING NON-COMPLIANCE

AutoCAD SHX Text  
 10.56 FT



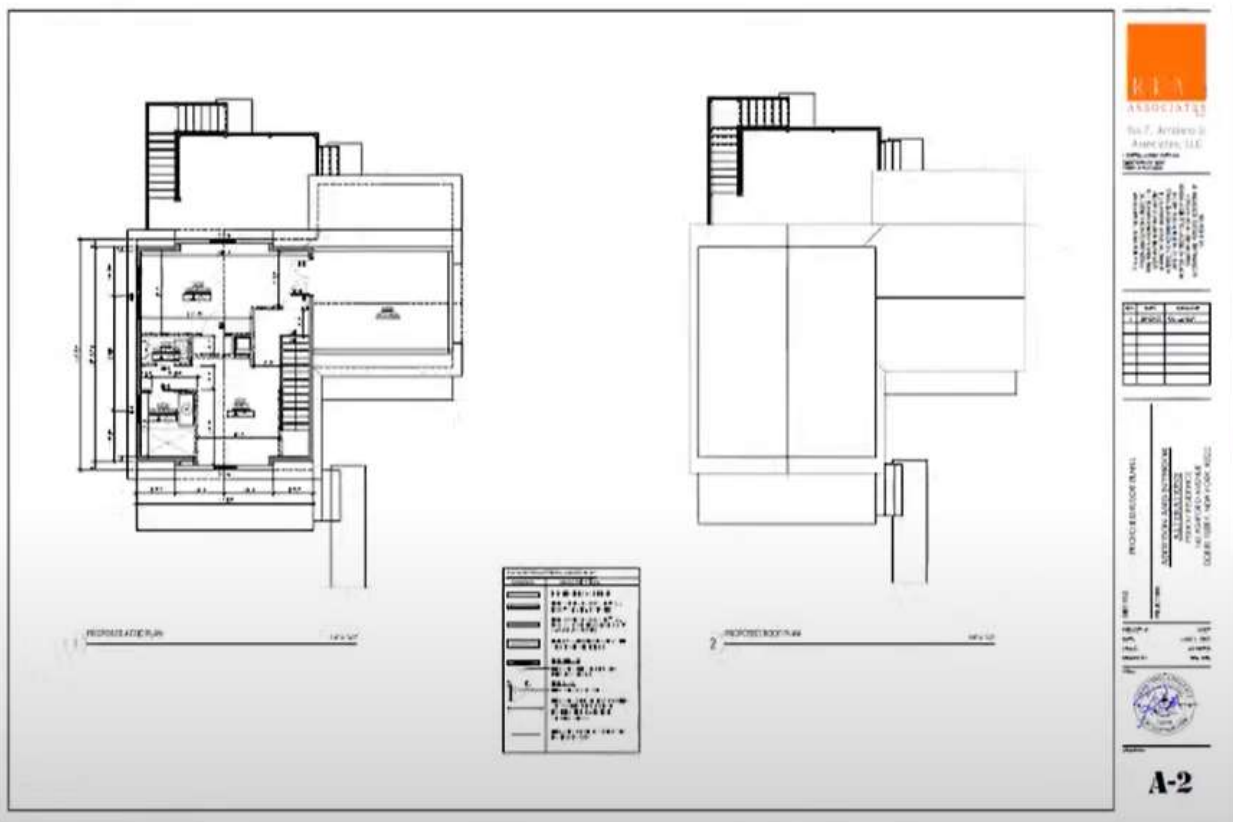
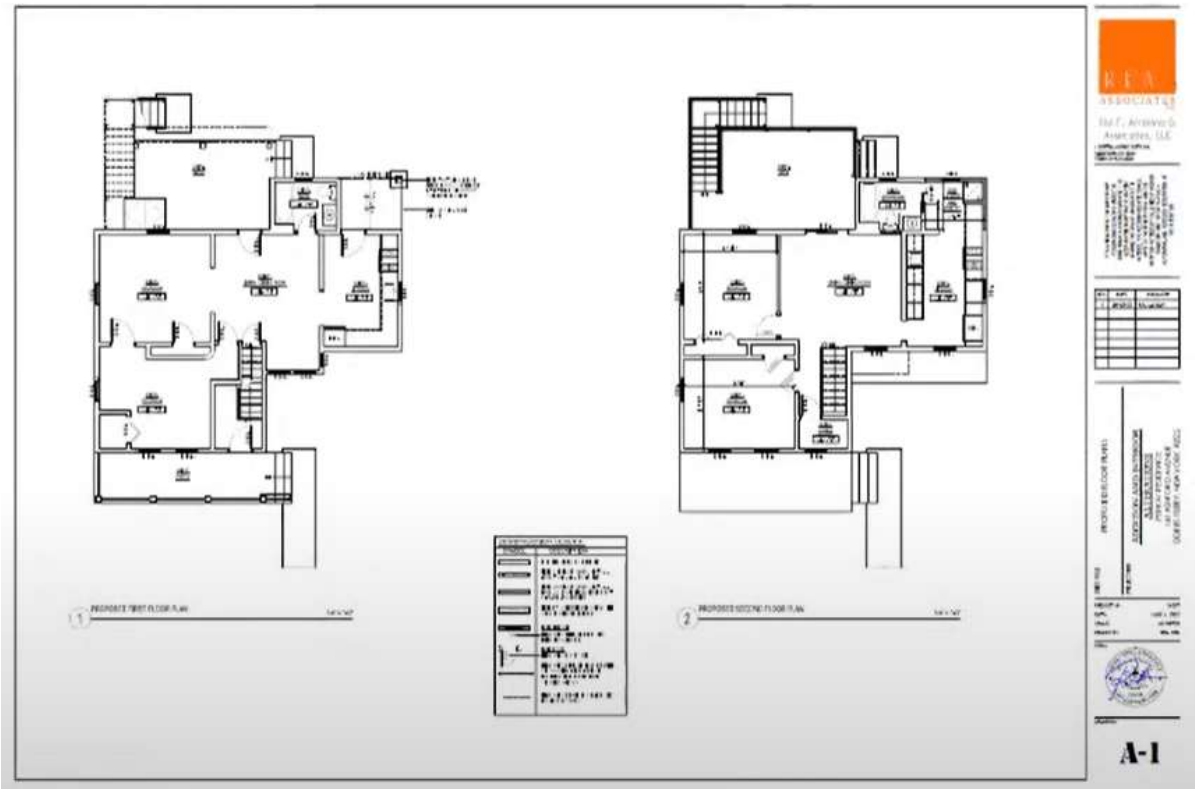
BUILDING COVERAGE CALCULATIONS	
<u>EXISTING:</u>	
EXIST. PRINCIPAL BLDG. COVERAGE	992.22 SQ. FT.
EXIST. 2 CAR GARAGE COVERAGE	626.39 SQ. FT.
TOTAL EXST. BUILDING COV.	1,618.61 SQ. FT.
$1,618.61 \text{ S.F.} / 6,365.53 \text{ S.F.} = 25.4\% \text{ S.F.}$	
<u>PROPOSED:</u>	
PROP. PRINCIPAL BLDG. COVERAGE	1,039.45 SQ. FT.
EXIST. 2 CAR GARAGE COVERAGE	626.39 SQ. FT.
TOTAL PROP. BUILDING COV.	1,665.84 SQ. FT.
$1,665.84 \text{ S.F.} / 6,365.53 \text{ S.F.} = 26.17\% \text{ S.F.}$	

IMPERVIOUS COVERAGE CALCULATIONS:		
	EXISTING	PROPOSED
PRINCIPAL BUILDING	992.22 SQ. FT.	1,039.45 SQ. FT.
2 CAR GARAGE	626.39 SQ. FT.	626.39 SQ. FT.
ASPHALT DRIVE & WALK	182.76 SQ. FT.	182.76 SQ. FT.
CONCRETE WALKS AND STEPS	847.48 SQ. FT.	847.48 SQ. FT.
STORAGE BIN	15.71 SQ. FT.	15.71 SQ. FT.
STONE RETAINING WALL	63.90 SQ. FT.	63.90 SQ. FT.
STONE WALK	120.66 SQ. FT.	120.66 SQ. FT.
NEIGHBORS WALK	26.22 SQ. FT.	26.22 SQ. FT.
TOTAL	2,875.34 SQ. FT.	2,922.57 SQ. FT.
<u>EXISTING IMPERVIOUS COVERAGE</u> $2,875.34 \text{ SQ. FT.} / 6,365.53 \text{ SQ. FT.} = 45.2\%$		
<u>PROPOSED IMPERVIOUS COVERAGE</u> $2,922.57 \text{ SQ. FT.} / 6,365.53 \text{ SQ. FT.} = 45.9\%$		

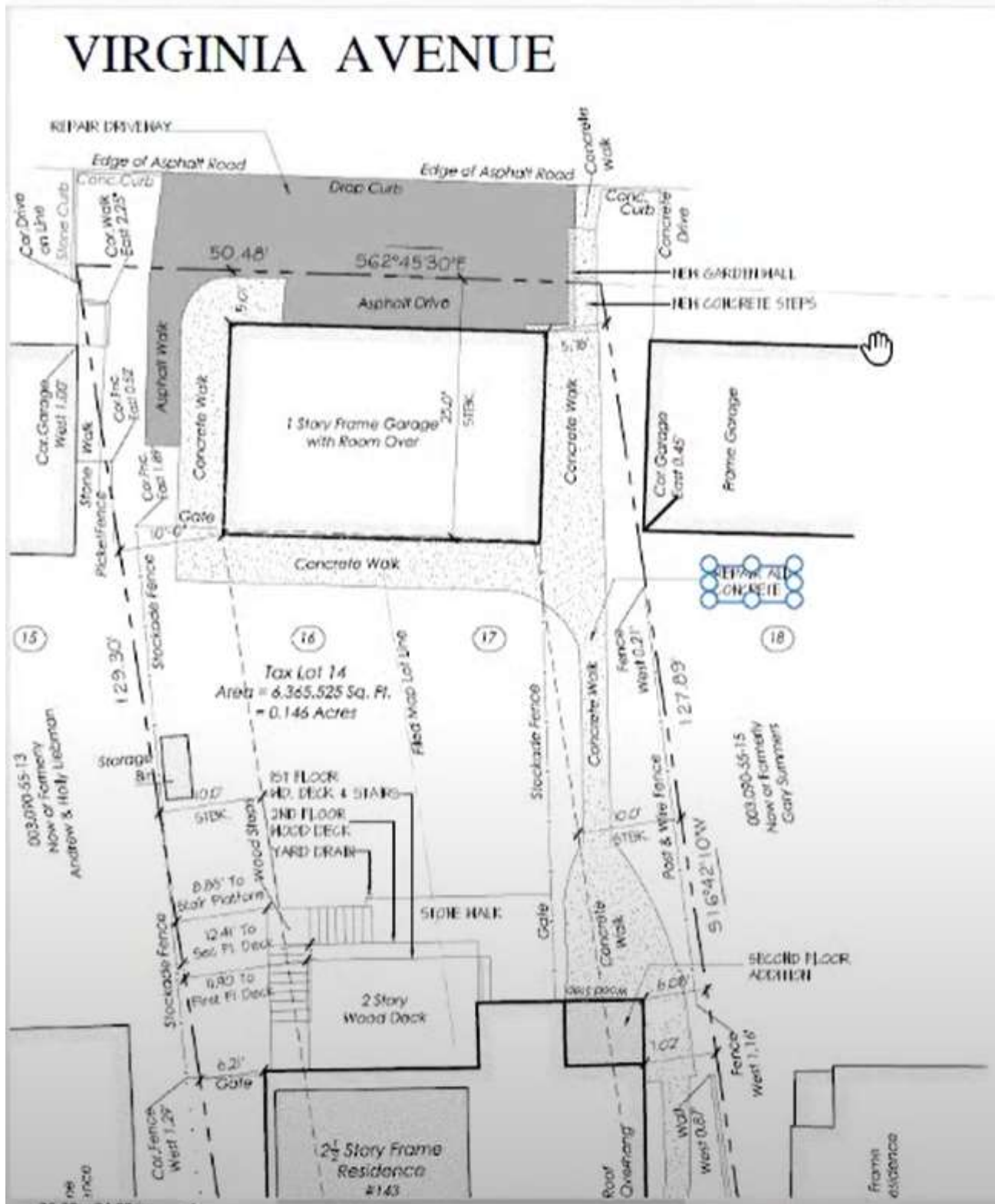




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Chairman Hofmann asked if anyone present wanted to address the Board regarding the proposed application.

No one present addressed the Board.

A discussion was held and Mr. Arango addressed questions from the Board.

Chairman Hofmann said the application will be continued to the next meeting of the Board. The Board would like an analysis of the sky exposure plane.

Mr. Roemer said he will send the calculation information to Mr. Arango.

Chairman Hofmann said Mr. Arango can adjust the schematic and put the sky exposure lines on the drawing. Chairman Hofmann said the next meeting is the second Wednesday in November.

**3. 111 Bellair Drive – Public Hearing for proposed addition and renovation to single family home.**

Plan Submittal form is as follows:

**Plan Submittal Form**

Address: 111 Bellair Drive

Application #: \_\_\_\_\_

Project: Child/Dabiri Alteration and Addition

Name: Niall Cain - Architect/Applicant

Email: ncain@nccstudio.com

Phone: 914-478-3448

Plans attached are being submitted for (check appropriate box):

- ☐ Building permit application 1 PDF copy & 2 paper copies ¼ scale
- ☐ Amendment to an application or permit, 2 sealed copies
- ☐ Final As Built to close permit, 1 sealed copy
- ☐ Final survey to close permit, 1 sealed copy

Plans attached are submitted at the direction of the Building Inspector for review by the following board (check all that apply):

- ☐ BOT- 1 PDF copy + 5 paper copies ¼ scale
- ☐ PB - 1 PDF copy + 4 paper copies ¼ scale
- ☒ ZBA - 1 PDF copy + 4 paper copies ¼ scale
- ☐ AHRB - 1 PDF copy + 2 paper copies ¼ scale

Received Stamp:



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**APPLICATION TO ZONING BOARD OF APPEALS  
VILLAGE OF DOBBS FERRY**

Note: Four copies of the application must be filed with the Clerk of the Board, no later than 2:00 p.m., twenty-one (21) days prior to the date of the meeting.

Date Filed: September 9, 2022

Applicant's Name: Niall Cain Telephone: 914-478-3448

Property Location: 111 Bellair Drive

Sheet: 3.160 Block: 141 Lots/Parcel: 4&5

The undersigned applicant requests a hearing before the Zoning Board of Appeals based on the following: (check one)

☒ Appeals decision of Building Inspector \_\_\_\_\_ Special Permit

Every application or appeal must be accompanied by an accurate plot plan to scale showing location of all existing structures, and also drawings showing the exact location, dimensions, and the nature of all proposed structures. These requirements will ordinarily be best met with surveys and architect's drawings. The Board may require that surveys and/or drawings be prepared and signed by duly accredited surveyors, engineers, or architects. Applicant is required to show proof of title to or legal interest in the premises, by deed or contract of sale, or other document. This application or appeal is made pursuant to the authorization contained in the Building Zoning Ordinance:

Article: 300 Section: 35 Subdivisions: 5


The basis of the relief sought by the undersigned pursuant to the provisions of the Building Zoning Ordinance is as follows: (Set forth briefly all pertinent facts and use additional sheets if necessary).

Relief is sought for construction of a vestibule and covered front porch within the required front yard setback.

  
Applicant

STATE OF NEW YORK  
COUNTY OF WESTCHESTER ) ss:

On this 15 day of Sept, 20 22 before me personally came Niall Cain, who came duly sworn deposes and says that he/she read the foregoing application and knows the content thereof and that the same is true to his/her own knowledge.

  
Notary Public  
REGINA K HOUGHTELING  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01H06379161  
Qualified in Westchester County  
My Commission Expires 08-08-20 26

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***Short Environmental Assessment Form***  
***Part 1 - Project Information***

**Instructions for Completing**

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: Child/ Dabiri Addition and Alteration			
Project Location (describe, and attach a location map): 111 Bellair Drive, Dobbs Ferry NY			
Brief Description of Proposed Action: Addition and Alteration to owners single family home including landscaping and retaining walls			
Name of Applicant or Sponsor: Niall Cain		Telephone: 914-478-3448 E-Mail: ncain@nccstudio.com	
Address: 5 Atilda Avenue			
City/PO: Dobbs Ferry		State: NY	Zip Code: 10522
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		8,978 SF acres	
b. Total acreage to be physically disturbed?		7,500 SF acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		8,978 SF acres	
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			



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5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: Project includes proposed geothermal heatpump system _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____			
_____			
_____			

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14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ The proposed project includes stormwater infiltration system for all additional impervious surfaces		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor/name: Niall Cain		Date: 09/15/2022
Signature: 		Title: Architect

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**DOBBS FERRY**  
— NEW YORK —

Village of Dobbs Ferry Building Department  
Village Hall - 112 Main Street Dobbs Ferry,  
New York 10522 Phone; (914) 231-8513 - Fax: 914-693-3470

**LWRP CONSISTENCY REVIEW COASTAL ASSESSMENT FORM**

Name of Applicant: NIAL CAIN  
Mailing address: 5 ATILDA AVENUE DOBBS FERRY  
NY  
Telephone number: 914-478 3448  
Tax Lot#: 3.160 / 141/445 111 BELAIR DR  
Application number, if any: \_\_\_\_\_

**A. INSTRUCTIONS** (Please print or type all answers)

1. All applicants, including the Village of Dobbs Ferry and other agencies, shall complete this CAF for proposed actions subject to **Local Law# 10-05 - LWRP Consistency Law**. This assessment is intended to supplement other information used by the Dobbs Ferry Planning Board in making a determination of consistency with the Coastal Management Policies set forth in the Dobbs Ferry Local Waterfront Revitalization Program (LWRP).
2. All applicants shall complete Sections Band C of this Coastal Assessment Form. If the proposed action meets any of the criteria listed in Section C, Section D must be completed.
3. In Section D, a proposed action should be evaluated as to its potential beneficial and/or adverse effects upon the coastal area and how it may affect the achievement of the specific policy standards contained in the LWRP and the LWRP Consistency Law.
4. Once evaluated, a proposed action may need to be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent with the LWRP policy standards. If an action to be certified as consistent with the LWRP policy standards, it shall not be undertaken.

**B. DESCRIPTION OF SITE AND PROPOSED ACTION**

1. Type of action (check appropriate response):
  - a) Directly undertaken (e.g., capital construction, planning activity, agency regulation, land transaction) CAPITAL CONSTRUCTION
  - b) Financial assistance (e.g., grant, loan, subsidy) \_\_\_\_\_



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- c) Permit, approval, license, certification BUILDING PERMIT REQUIRED  
d) Party or Agency undertaking action: \_\_\_\_\_
2. Describe nature and extent of action: ADDITION & ALTERATION TO  
EXISTING SINGLE FAMILY HOME
3. Location of action (Street or Site Description): 111 BELLAIR DRIVE

**4. COASTAL ASSESSMENT CRITERIA**

Please check any of the following criteria that describe the proposed action.

- ☐ 1. The proposed action has direct contact with coastal waters, i.e., the Hudson River and/or its tributaries - Wickers Creek and the Saw Mill River.
- ☐ 2. The proposed action utilizes coastal waters, either directly or indirectly.
- ☐ 3. The proposed action involves natural features such as tree cover, hillsides, steep slopes, ridgelines and wetlands that either effect or are affected by coastal waters.
- ☐ 4. The proposed action demonstrates a relationship to coastal waters. The relationship may be recreational, cultural, historic, or business.
- ☒ 5. The proposed action has a direct visual relationship with coastal waters and their waterfronts.

If the proposed action meets any of the above criteria, Section D must be completed.

**5. COASTAL ASSESSMENT**

The following thirteen questions are based directly on the Coastal Management Policies set forth in Section III of the Dobbs Ferry LWRP. The preparer of this form should review these policies which are available online at [www.dobbsferry.com/content/waterfront](http://www.dobbsferry.com/content/waterfront) and also on file in the Village of Dobbs Ferry Clerk's office. Please answer every question and provide a brief explanation. If necessary, you may attach further explanation or refer to other available documentation relating to the proposed action.

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**Applicant**

1. Does the proposed action foster a pattern of development in the coastal area that enhances community character, open space preservation, use of existing infrastructure, use of a coastal location?

☒ YES ☐ NO ☐ Not Applicable

*Enhances Community Character*

2. Does the proposed action preserve historic and archaeological resources?

☐ YES ☐ NO ☒ Not Applicable

3. Does the proposed action protect existing scenic resources or enhance visual quality in the community?

☒ YES ☐ NO ☐ Not Applicable

4. Does the proposed action minimize loss of life, structures, and natural resources from flooding and erosion?

☒ YES ☐ NO ☐ Not Applicable

*Stormwater Management System  
to be provided*

5. Does the proposed action protect or improve water resources?

☒ YES ☐ NO ☐ Not Applicable

6. Does the proposed action protect or restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities?

☐ YES ☐ NO ☒ Not Applicable

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7. Does the proposed action protect and/or improve air quality?

☒ YES ☐ NO ☐ Not Applicable

PROJECT INCLUDES INSTALLATION  
OF GEOTHERMAL HEAT PUMP SYSTEMS

8. Does the proposed action minimize environmental degradation from solid waste and hazardous substances and wastes?

☐ YES ☐ NO ☒ Not Applicable

9. Does the proposed action improve public access to and recreational use of public lands and waters?

☐ YES ☐ NO ☒ Not Applicable

10. Does the proposed action protect water-dependent uses, promote siting of new water-dependent uses in suitable locations, and/or support efficient harbor operation?

☐ YES ☐ NO ☒ Not Applicable

11. Does the proposed action promote the sustainable use of fish and wildlife resources?

☐ YES ☐ NO ☒ Not Applicable



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12. Does the proposed action protect agricultural lands?  
☐ YES ☐ NO ☒ Not Applicable

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13. Does the proposed action promote appropriate use and development of energy and mineral resources?  
☐ YES ☐ NO ☒ Not Applicable

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**E. FURTHER REMARKS OR ADDITIONAL INFORMATION:**

If assistance or further information is needed to complete this form, please contact Village of Building Department.

Preparer's  
Name: NIAU CAN Telephone: 914-478-3446

Title: Architect Agency: McCoy Studio Date: 9/15/2022

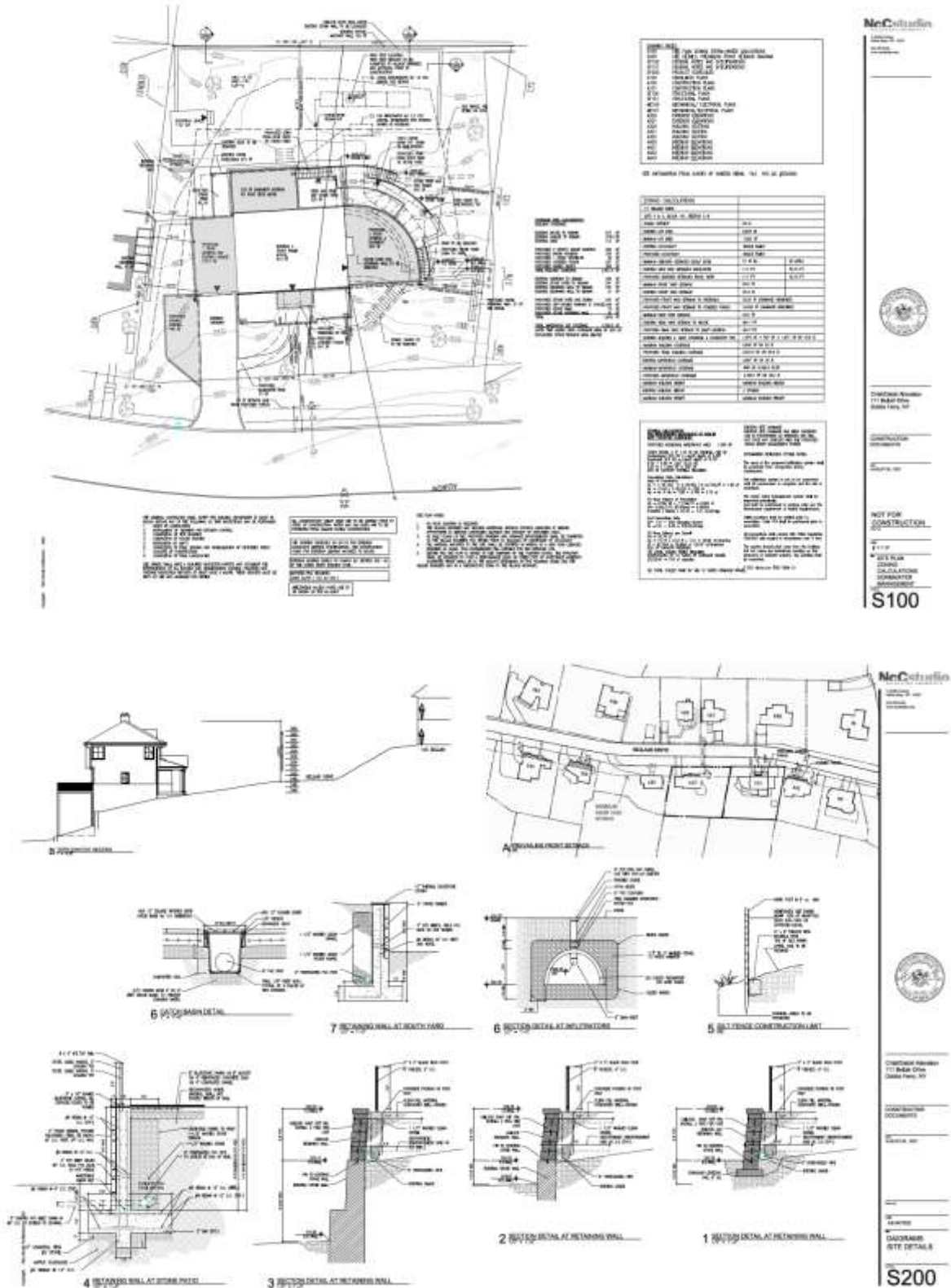
**Consistency Determination**

☐ Yes

☐ No

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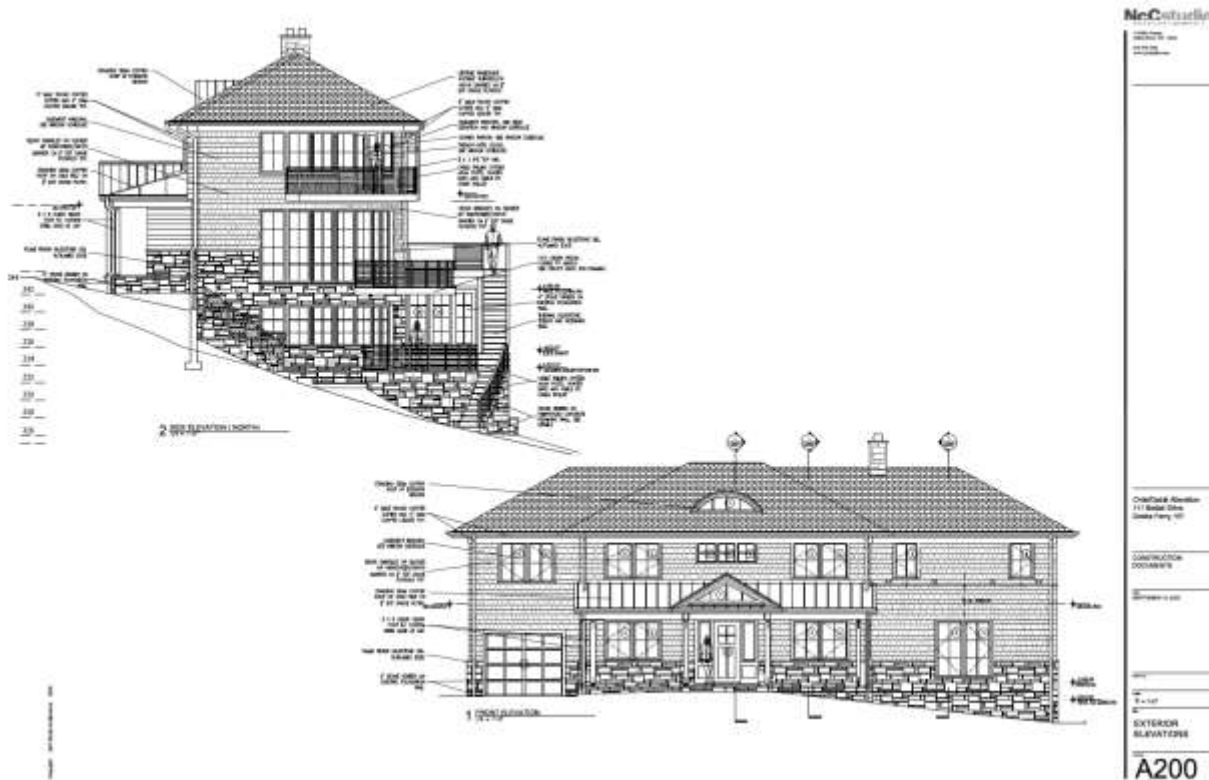
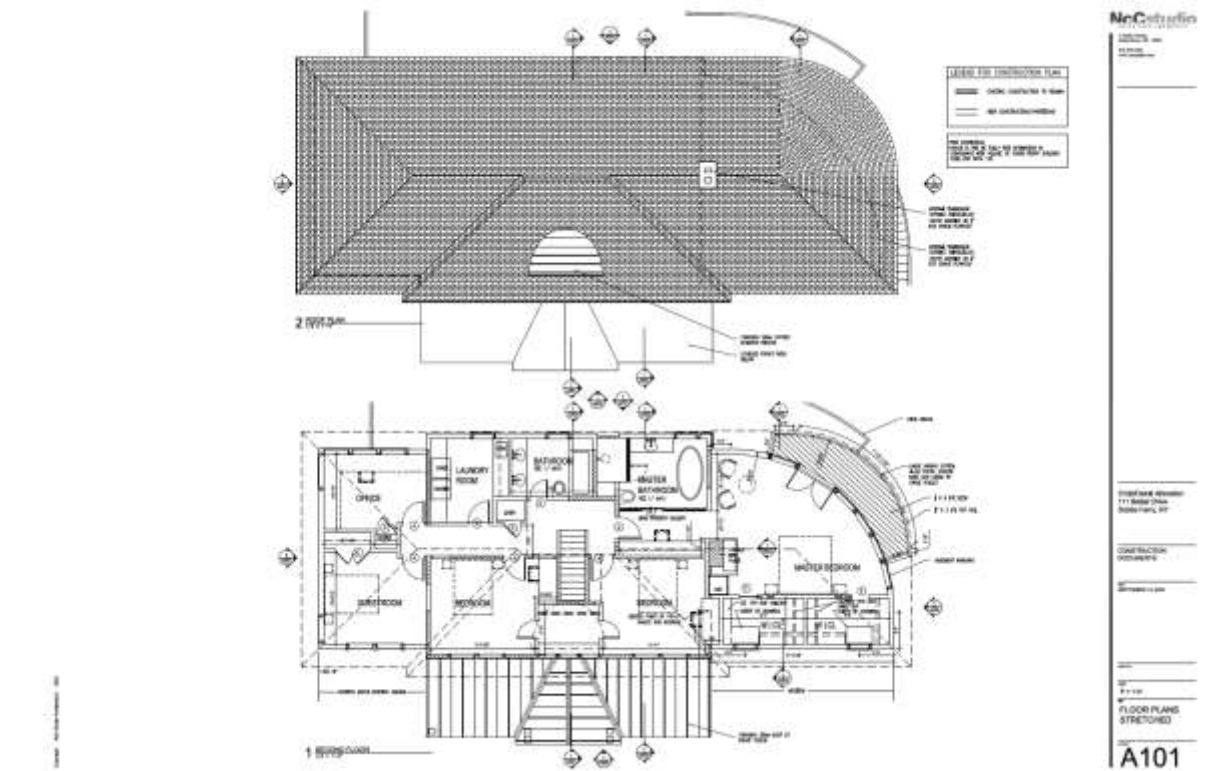
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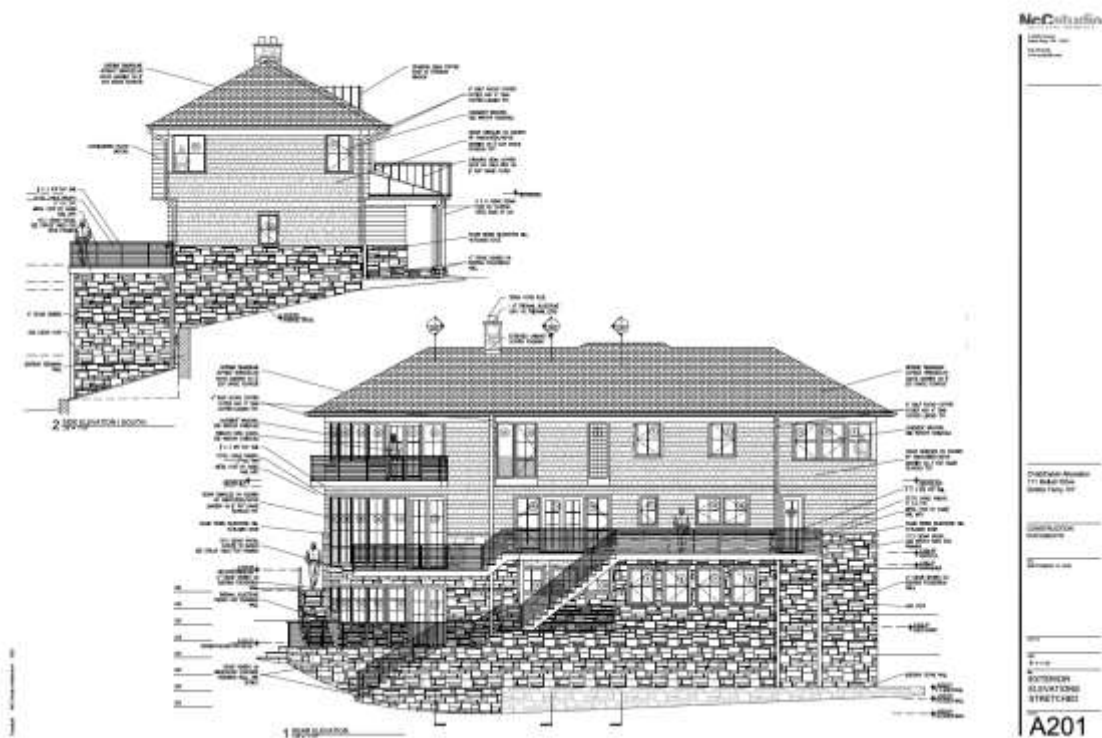




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Renderings are as follows:



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Letter dated September 13, 2022 from Mr. Dan Roemer/Building Inspector to Mr. Gabriel Dabiri is as follows:



**VILLAGE OF DOBBS FERRY**

Building Department

112 Main Street

Dobbs Ferry, New York 10522

TEL: (914) 231-8511 • [Building@dobbsferry.com](mailto:Building@dobbsferry.com) • FAX: (914) 693-5470

9-13-22

Gabriel Dalsiri  
111 Bellair Dr.  
Dobbs Ferry, NY 10522

Re: 111 Bellair Dr.

S/D/L 3.160-141-5

Dear Mr Dabiri,

Pursuant to a review of the submitted proposed plans to construct a new addition, the following determinations were made.

The property is located in the OF-5 Zone. Requiring a variances.

1. The required minimum front yard setback is 25'  
You have a proposed a setback of 15' 6"  
Thus requiring a variance of 9' 6"

For these reasons your proposal, as submitted, is denied pending zoning board review.

If you have any questions, please contact the Building Department at (914) 231-8511.

Respectfully,

Dan Roemer  
Building Inspector

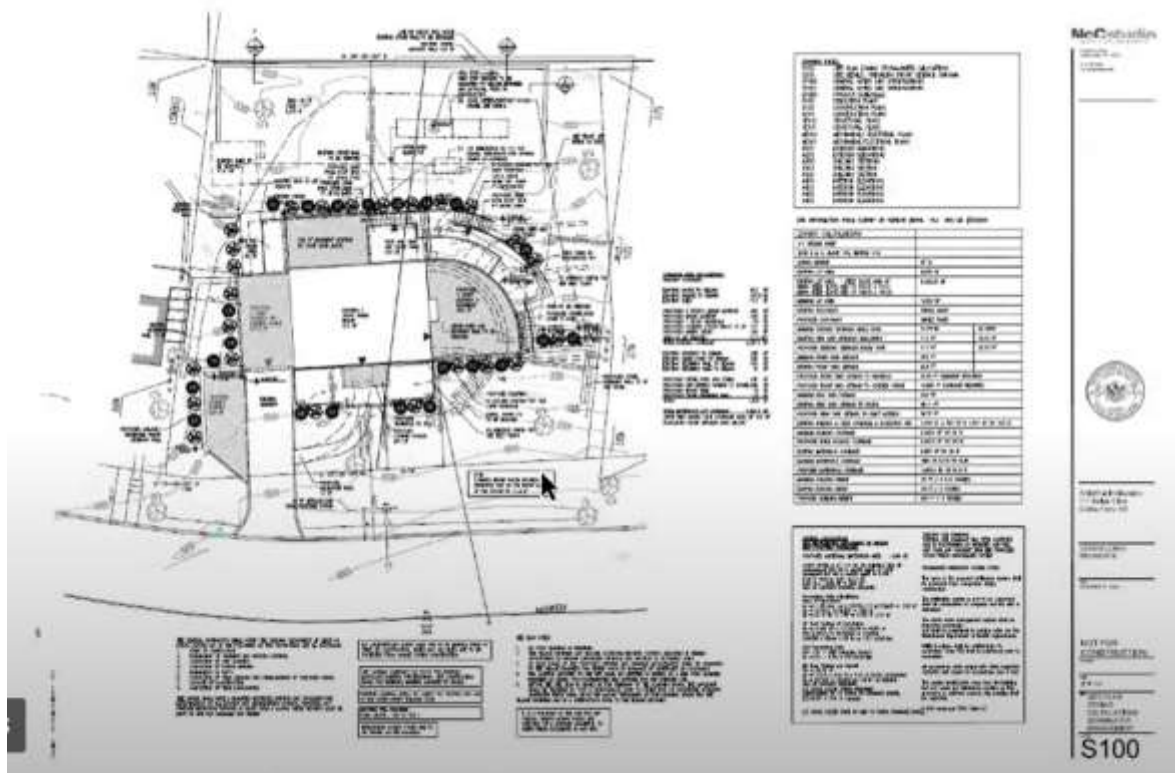


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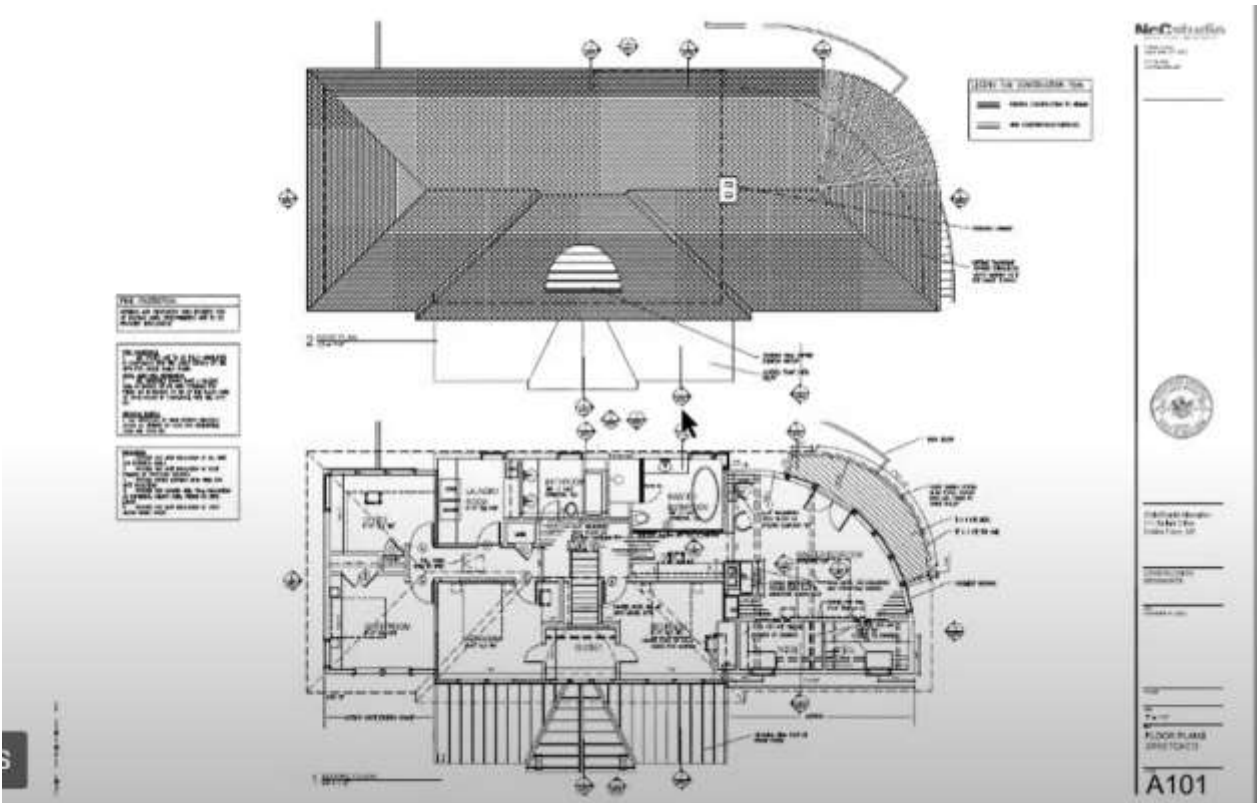
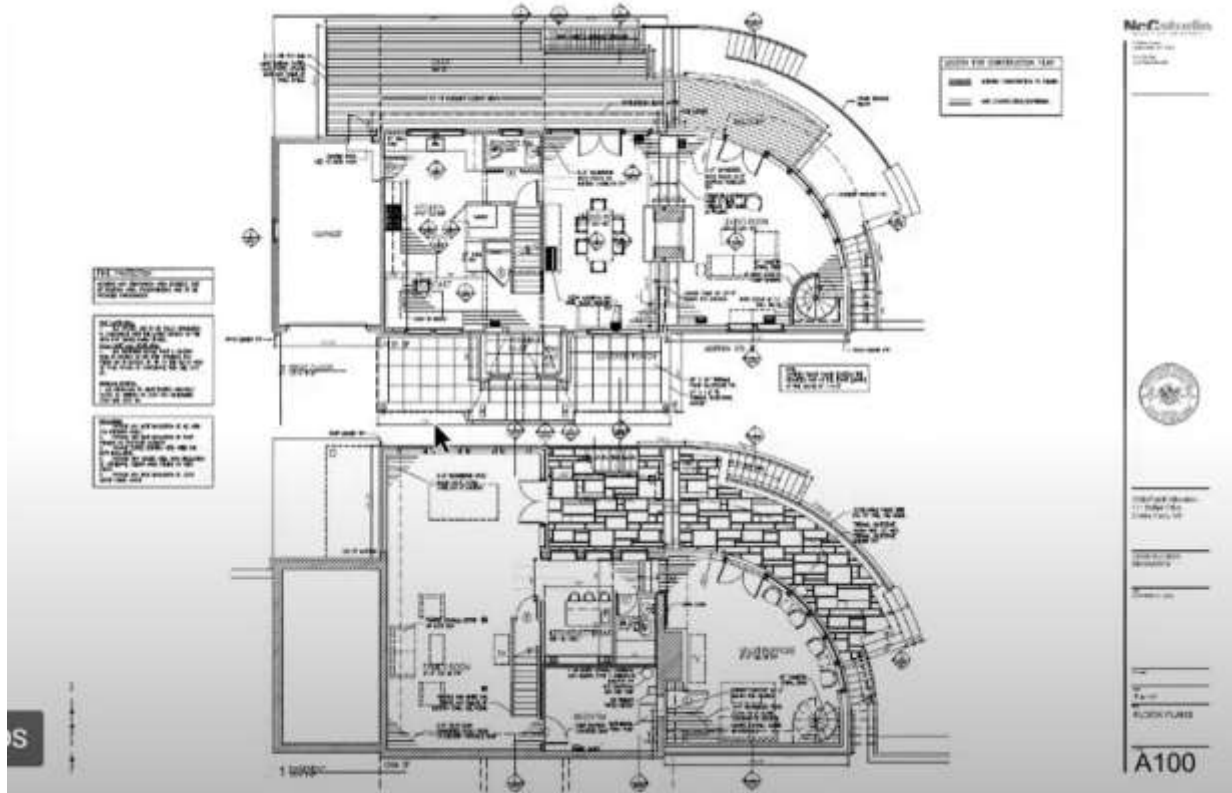
Mr. Niall Cain/Architect was present to represent the proposed application.

Mr. Cain discussed the proposed application and displayed the following slides:

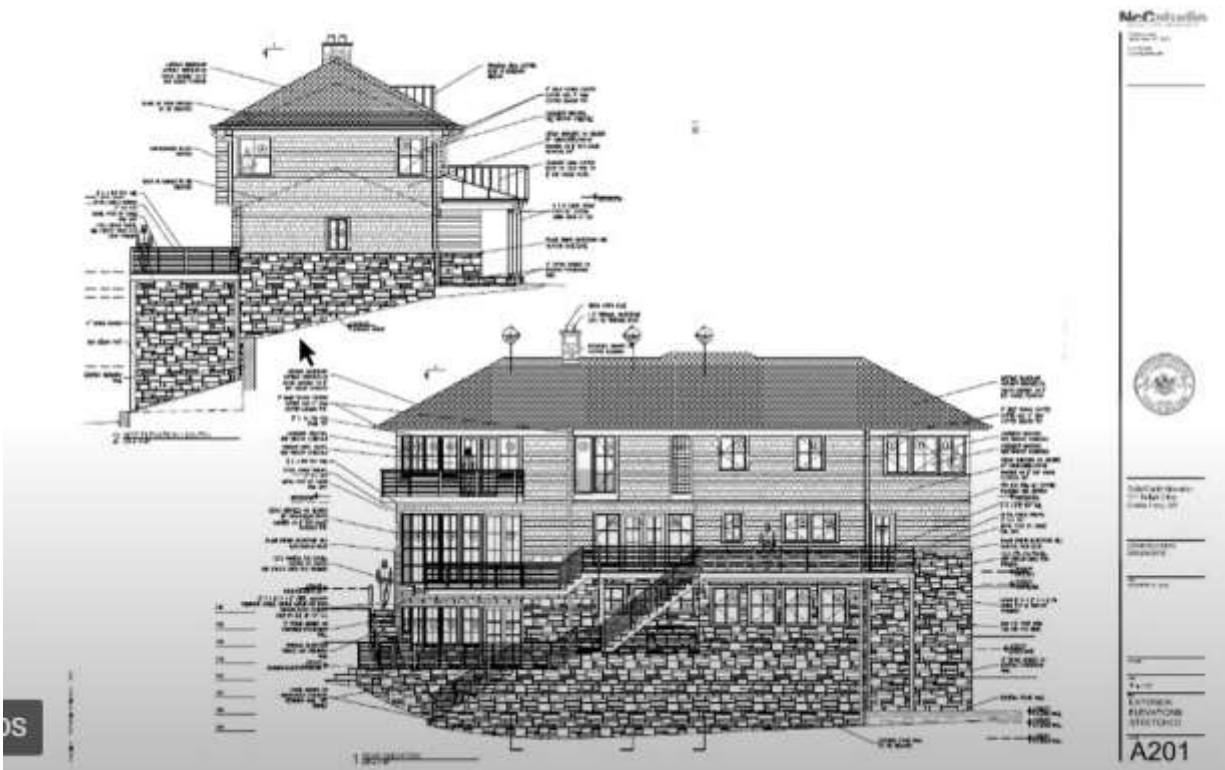
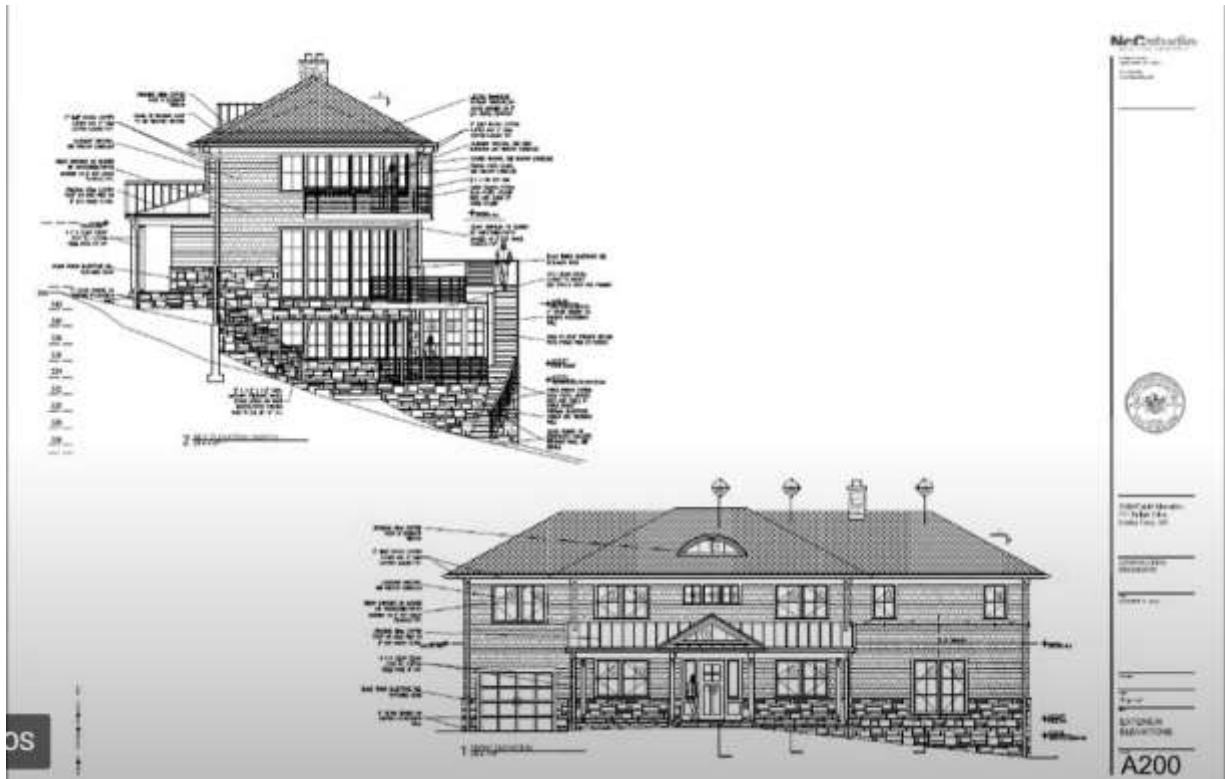




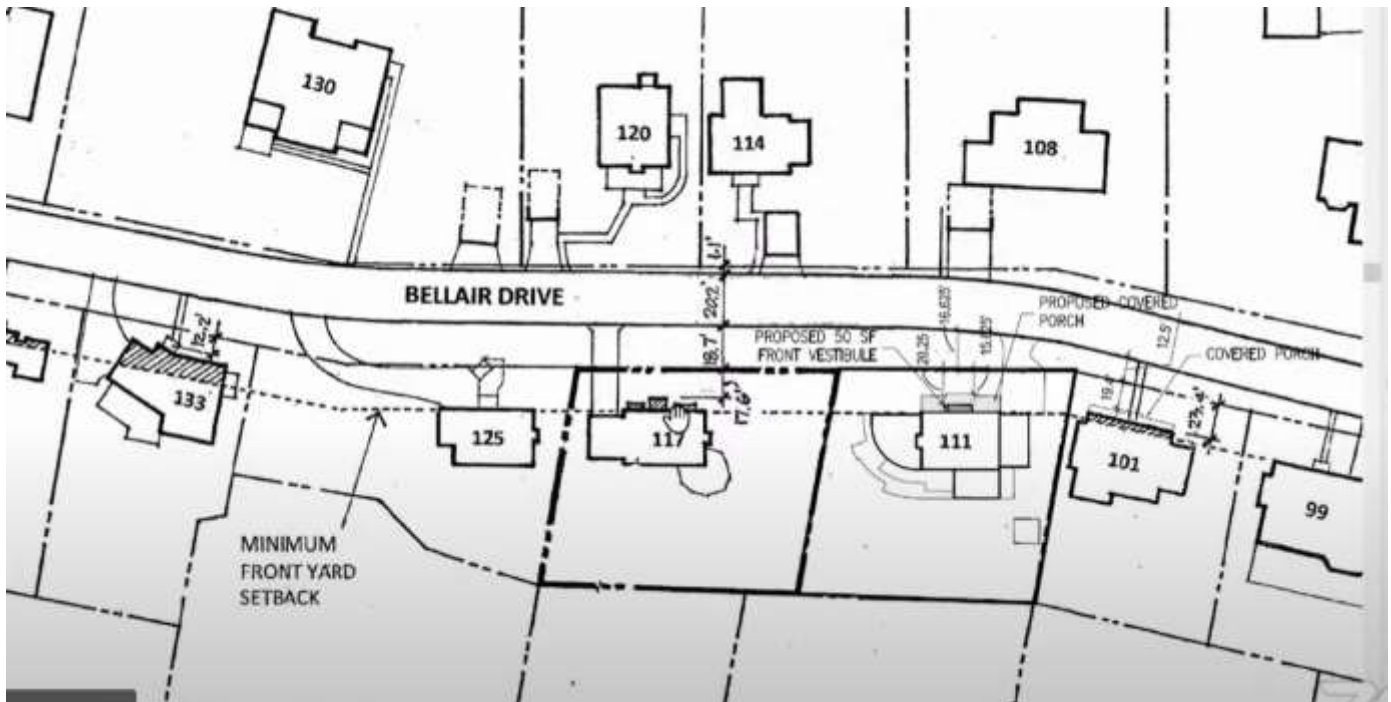
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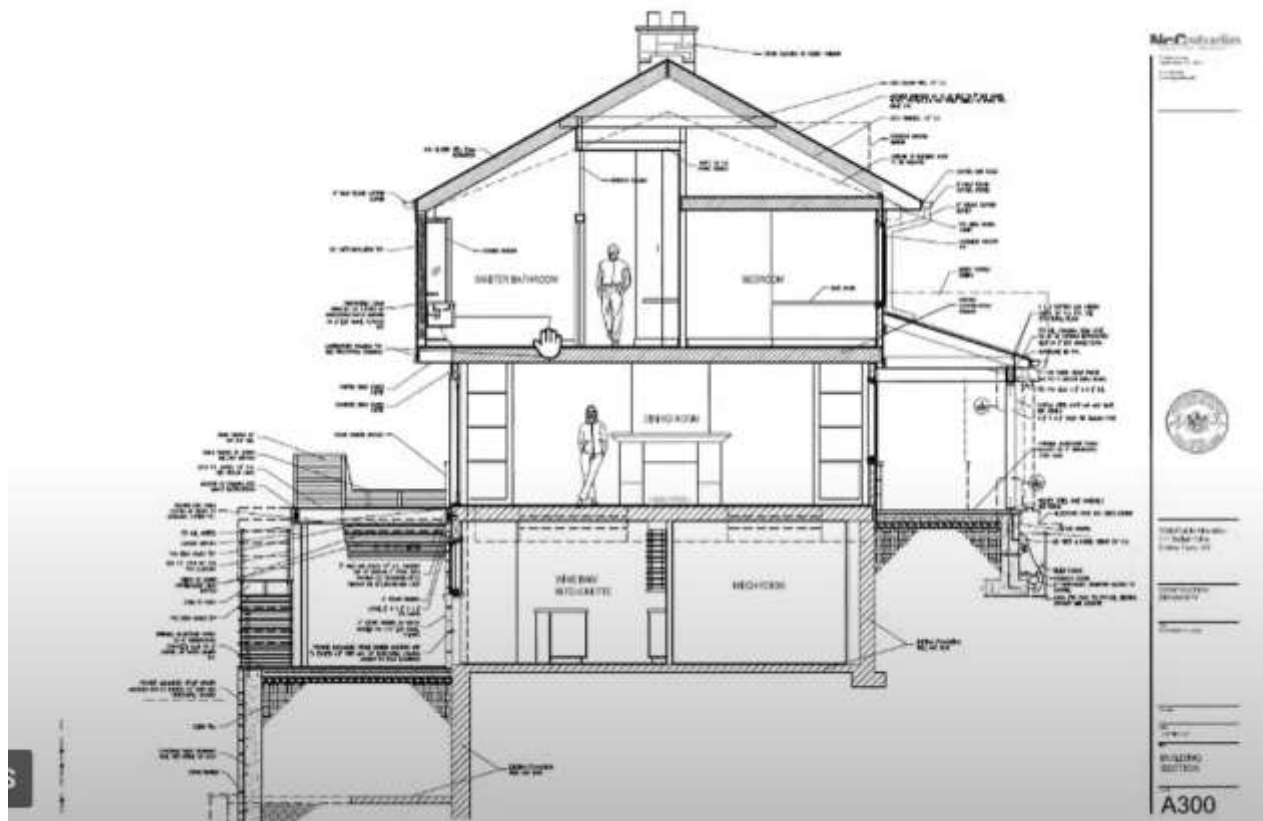
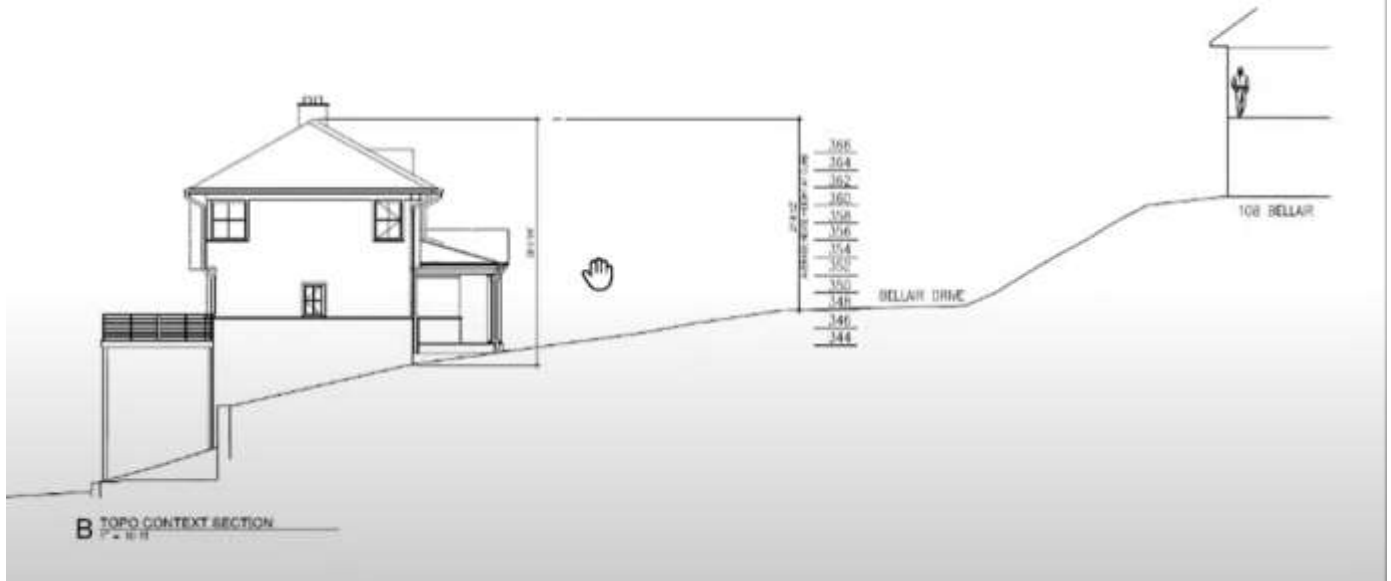
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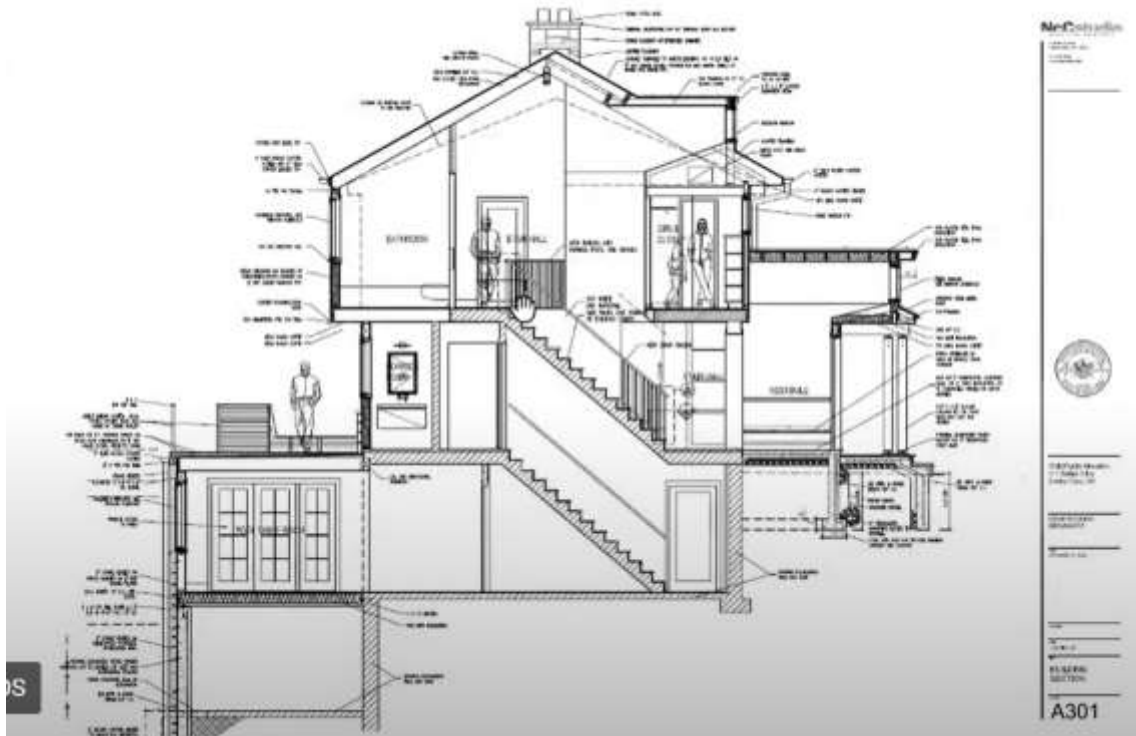




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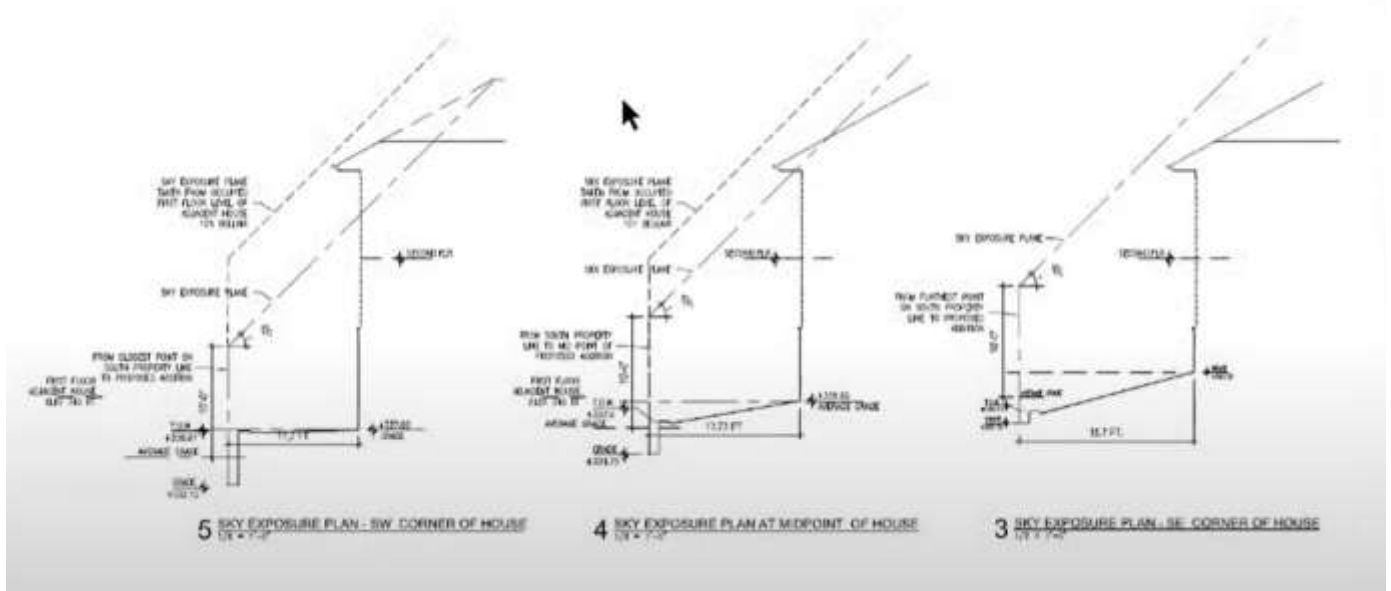




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A discussion was held and Mr. Cain addressed questions from the Board.

The following people addressed the Board: Bruce Jonas & Natalie Trojan/101 Bellair Drive; and Mr. Justin Gallop/125 Bellair Drive.

The discussion continued and Mr. Roemer addressed questions from the Board.

Motion by Chairman Hofmann, seconded by Mr. Gutman to close the public hearing for the application of 111 Bellair Drive for proposed addition and renovation to single family home.

<b>CHAIRMAN HOFMANN</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>BRUCE GOMBOS</b>	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
<b>JEREMY GUTMAN</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JON MAASS</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JOSEPH CAPASSO</b>	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
<b>VOTE TOTALS</b>	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
<b>RESULT:</b>	<b>MOTION: PASSES</b>				

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Motion by Chairman Hofmann, seconded by Mr. Gutman, that the application be granted in accordance with the plan submitted.

<b>CHAIRMAN HOFMANN</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>BRUCE GOMBOS</b>	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
<b>JEREMY GUTMAN</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JON MAASS</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JOSEPH CAPASSO</b>	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
<b>VOTE TOTALS</b>	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
<b>RESULT:</b>	<b>MOTION: PASSES</b>				

The meeting ended at 9:36 p.m.