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**TOWN OF LEWISBORO**  
**Westchester County, New York**



**Planning Board**  
**PO Box 725**  
**Cross River, New York 10518**

**Tel: (914) 763-5592**  
**Fax: (914) 763-3637**  
**Email: [planning@lewisborogov.com](mailto:planning@lewisborogov.com)**

**AGENDA - Amended**

**Tuesday January 28, 2014**  
**7:30 P.M.**

**Town Offices @ Cross River**  
**Cross River Plaza, Cross River**

**Note: Meeting to end at or before 11:30 P.M.**

**I. SKETCH PLAN REVIEW**

**Rice/Arfa, Ridgefield Avenue, South Salem, New York – Application for Lot Line Change from Brian Rice, 159 Ridgefield Avenue, South Salem, New York and Johnathan Arfa and Barbara Bernstein, 149 Ridgefield Avenue, South Salem, New York. Cal # 10-13 PB**

**II. PROJECT REVIEW**

**Jean Emond/Jane Balanoff, 70 Twin Lakes Road, South Salem, New York – Application for Wetland Activity Permit Approval to rebuild screened porch. Cal# 111-13WP**

**O-2 Living Realty Group, LLC (Yellow Monkey Village), 792 Route 35, Cross River, New York – Application for Waiver of Site Development Plan Procedures - Proposing a change of use and certain site modifications, all of which require a site plan approval. Cal# 11-13PB**

**III. WETLAND VIOLATIONS**

**Michael DeCandia, 174 North Salem Road, Katonah, Cal # 1-13WV and Cal# 109-12WP**

**Kenneth Alderman, 11 Birch Spring Road, South Salem, Cal# 2-13WV**

**IV. PUBLIC HEARING - Continuation**

**Rudolph C. Petrucci, Oscaleta Road, South Salem, New York - Application for Subdivision Plat Approval and Wetland Activity Permit Approval to permit the construction of a three bedroom, single-family residence and associated deck, porch, driveway, walkway, landscaping, septic system, potable well, fencing and stormwater facilities.**  
**Cal # 8-12PB and Cal# 61-09 WP**

**V. DISCUSSION**

**Bike/Pedestrian Plan**

**Tracking of Conservation Easements**

**VI. CORRESPONDENCE AND GENERAL BUSINESS**

**VII. MINUTES OF December 17, 2013**

**RICE/ARFA**

**CAL# 10-13PB**

5431  
12-3-13

December 2, 2013


To: Town of Lewisboro

RE: RICE Lot Line Application

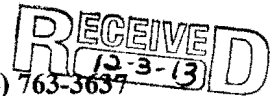
Attached is the requested documentation for a lot line adjustment. As requested, outlined below is a brief narrative.

- The proposed area is 0.299 acres within 2 acre zoning. The properties are currently 4.116 and 5.465 acres respectively.
- Area is flat and will expand useable area for the Rice family.
- Current property line for the Rice property is not uniform. The proposed lot line adjustment will make the property line uniform and consistent.

Regards



Brian Rice



call# 10-68

**STEP 1: APPLICATION FOR SKETCH PLAN REVIEW (SUBDIVISION)**

Rice / Arfa / Bernstein Lot Line Change

project name

zoning district

159 Ridgefield Ave., So. Salem

site location

40

tax sheet

10263

block

2

lot

0.299 site acreage Addl.

Is the site located within 500 FT of any Town boundary?

YES ☐ NO ☒

after Lot Line Change

0 number of proposed lots

Is the site located within the New York City Watershed?

YES ☐ NO ☒

N/A length of new streets

Is the site located on a State or County Highway? Route #

YES ☐ NO ☒

engineer's name

address

phone

David Odell

12 Collier Drive Carmel NY

1-845-225-0706

surveyor's name

address

phone

ALL SUBMITTED PLANS AND DOCUMENTS SHALL BEAR AN ORIGINAL SIGNATURE, SEAL AND LICENSE NUMBER OF THE PROFESSIONAL RESPONSIBLE FOR PREPARING EACH ITEM

ALL PLANS SHALL BE EQUAL IN SHEET SIZE, COLLATED INTO STAPLED FOLDED SETS.  
THIRTEEN (13) COMPLETE SETS ARE REQUIRED.

**THE FOLLOWING MATERIALS SHALL BE ATTACHED:**

SKETCH PLAN per Section 195-14 of the Land Subdivision Regulations.

WRITTEN NARRATIVE describing the environmental character, physical features and scope of the proposed action.

COMPLETED AFFIDAVIT OF OWNERSHIP FORM certifying owner of record as of date of the application.

COMPLETED AFFIDAVIT FROM RECEIVER OF TAXES certifying payment of all taxes and assessments due.

FILING FEE: See attached Application Fee Schedule. Check(s) are payable to: *Town of Lewisboro*.

INITIAL ESCROW DEPOSIT payable to: *TOWN OF LEWISBORO* (see Planning Board Secretary).

**SUGGESTED:**

SKETCH CONSTRUCTION PLANS, AND DETAILS.

TOPOGRAPHIC SURVEY per Appendix A-2 of the Land Subdivision Regulations, showing two-foot contour intervals.

MAP OF CONTIGUOUS HOLDINGS per Appendix A-3 of the Land Subdivision Regulations.

WETLAND DELINEATION per Chapter 217 Wetlands and Watercourse Law, with NYSDEC endorsement where appropriate.

THE APPLICANT understands that any application is considered complete only when all information and documents required have been Submitted and received by the Planning Board and further understands that the applicant is responsible for the payment of all application and Review fees incurred by the Planning Board.

THE UNDERSIGNED WARRANTS the truth of all statements contained herein and in all supporting documents according to the best of his or her knowledge and belief and authorizes visitation and inspection of the subject property by the Town of Lewisboro and its agents.

Brian Rice

applicant's name

159 Ridgefield Ave

address

763-6517

phone

u

signature

11/21/13

date

Brian Rice

owner's name

159 Ridgefield Ave

address

763-6517

phone

u

signature

11/21/13

date

Date of receipt by Planning Board Secretary \_\_\_\_\_ Application ID: SUB # \_\_\_\_\_

12-3-13

JONATHAN P. ARFA  
BARBARA BERNSTEIN  
149 Ridgefield Avenue  
South Salem, NY 10590

November 18, 2013

Town of Lewisboro  
Building Dept.  
20 North Salem Road  
Cross River, NY 10518

Att: Peter Barrett, Building Inspector


Re: 149 Ridgefield Avenue  
And 159 Ridgefield Avenue  
South Salem, NY

Dear Mr. Barrett:

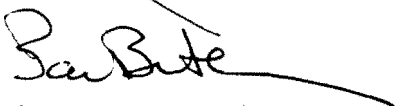
Brian and Heather Rice, the owners of 159 Ridgefield Avenue are in the process of applying for a lot line change between the above two-referenced properties.

We are familiar with and are in agreement with the lot line change that they are proposing.

Very truly yours,



Jonathan P. Arfa



Barbara Bernstein

**AFFIDAVIT OF OWNERSHIP**

STATE OF )  
COUNTY OF ) ss:

Jonathan P. Arfa and Barbara A. Bernstein, being duly sworn, deposes and says that

she/he resides at 149 Ridgefield Avenue, Sc. Salem, NY

in the County of: Westchester

State  
of: New York

And that she/he is (check one) (1) the owners, or (2) the \_\_\_\_\_  
Title

of \_\_\_\_\_  
name of corporation, partnership or other legal entity

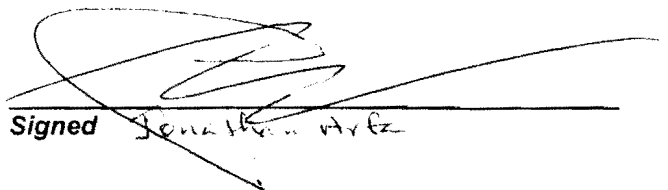
which is the owner, in fee of all that certain lot, piece or parcel of land situated, lying  
and being in the Town of Lewisboro, New York, aforesaid and known and designated  
on the Tax Map in the Town of Lewisboro as Lot Number 53

Block 10263 on sheet 40

For (check one):

- ☒ SKETCH PLAN REVIEW    ☐ PRELIMINARY SUBDIVISION PLAT    ☐ FINAL SUBDIVISION PLAT  
☐ SITE DEVELOPMENT PLAN    ☐ SPECIAL USE PERMIT    ☐ WAIVER OF SITE PLAN PROCEDURES  
☐ WETLAND PERMIT    ☐ STORMWATER PERMIT    ☐ FILING WITH WESTCHESTER COUNTY CLERK

\_\_\_\_\_

  
Signed Jonathan Arfa

Sworn to before me this

25<sup>th</sup> day of November, 2013

  
Notary public (affix stamp)

JENNIFER TODD  
Notary Public, State of New York  
No. 01TO6213188  
Qualified in Orange County  
Commission Expires 11/2/15

AFFIDAVIT OF OWNERSHIP

STATE OF )  
COUNTY OF ) ss:

Brian Rice and Heather Rice, being duly sworn, deposes and says that  
she/he resides at 154 Ridgely Avenue, Sec. Salem, New York  
in the County of: Westchester

State  
of: New York

And that she/he is (check one) (1) the owners, or (2) the \_\_\_\_\_  
Title  
of \_\_\_\_\_  
name of corporation, partnership or other legal entity

which is the owner, in fee of all that certain lot, piece or parcel of land situated, lying  
and being in the Town of Lewisboro, New York, aforesaid and known and designated  
on the Tax Map in the Town of Lewisboro as Lot Number 2  
Block 10263 on sheet 40

For (check one):

☒ SKETCH PLAN REVIEW    ☐ PRELIMINARY SUBDIVISION PLAT    ☐ FINAL SUBDIVISION PLAT  
☐ SITE DEVELOPMENT PLAN    ☐ SPECIAL USE PERMIT    ☐ WAIVER OF SITE PLAN PROCEDURES  
☐ WETLAND PERMIT    ☐ STORMWATER PERMIT    ☐ FILING WITH WESTCHESTER COUNTY CLERK

[Signature]  
Signed

Sworn to before me this

22nd day of November, 2013

[Signature]  
Sworn to before  
me this 21st day  
of November 2013

[Signature]  
Notary public (affix stamp)

SUSAN C. SIMON  
Notary Public, State of New York  
No. 02SI5025199  
Qualified in Westchester County  
Commission Expires March 21, 2014

SUSAN C. SIMON  
Notary Public, State of New York  
No. 02SI5025199  
Qualified in Westchester County  
Commission Expires March 21, 2014


SUSAN C. SIMON  
Notary Public, State of New York  
No. 02SI5025199  
Qualified in Westchester County  
Commission Expires March 21, 2014



**MEMORANDUM**

TO: Chairman Jerome Kerner, AIA and  
Members of the Lewisboro Planning Board

CC: Lisa Pisera  
Lawrence Praga, Esq.

FROM: Jan K. Johannessen, AICP   
Joseph M. Cermele, P.E., CFM  
Town Consulting Professionals

DATE: January 22, 2014

RE: Rice/Arfa Lot Lane Change  
149 & 159 Ridgefield Avenue  
Sheet 40, Block 10263, Lot 2 & 53

---

**Project Description**

The subject property consists of two (2) lots totaling  $\pm 9.58$  acres of land located off of Ridgefield Avenue and within the R-2A Zoning District. Tax Lot 53 currently consists of  $\pm 4.116$  acres, is owned by Jonathan Arfa and Barbara Bernstein and is developed with a single-family residence, pool, a detached accessory building, driveway, septic system and well. Tax Lot 2 currently consists of  $\pm 5.465$  acres, is owned by Brian Rice and is developed with a single-family residence, shed, driveway, septic system and well. The proposed action involves the transfer of  $\pm 0.299$  acres of land from Lot 53 (Arfa/Bernstein) to Lot 2 (Rice).

**SEQRA**

The proposed action is an Unlisted Action under the State Environmental Quality Review Act (SEQRA) and a coordinated review is not required. Prior to granting approval, the Planning Board must issue a Determination of Significance.

Chairman Jerome Kerner, AIA

January 22, 2014

Page 2

### **Required Approvals**

1. Final Subdivision Plat Approval is required from the Planning Board.
2. Unless waived by the Planning Board under Section 195-13 of the Subdivision Regulations, a public hearing is required.
3. Westchester County Department of Health (WCDH) approval is required.

### **Comments**

1. Historically, the Planning Board has not required applicants to submit Step II of the Application Form and has not issued Preliminary Subdivision Approval for lot line changes. So long as the Board is comfortable with the proposed action and the proposed action does not require a variance, the applicant should submit Step III of the Application Form.
2. The full extent of the septic system located on Lot 53 (Arfa) should be illustrated.
3. The building coverage (existing/proposed) associated with Lot 2 (Rice) is not identified on the Zoning Conformance Table.
4. The contiguous buildable area shall be graphically illustrated and calculated in accordance with Section 220-10E of the Zoning Code (Lot 53 only).
5. The lot depth shall be graphically illustrated and calculated for each lot and an adjusted lot area calculation (existing/proposed), utilizing the formula outlined under Section 220-25B of the Zoning Code, shall be provided on the plan.
6. According to secondary source mapping, a wetland and watercourse is located along the southerly property line of Lot 2 (Rice); the approximate location of the on-site wetland and watercourse should be illustrated on the plan.
7. The required 200' diameter circle should be graphically illustrated for both lots. We note that the zoning conformance table identifies that Lot 53 (Arfa) does not comply with the minimum lot width requirement; however, this does not appear to be the case.
8. The applicant should submit the Short Environmental Assessment Form (EAF) for review.
9. The applicant should submit the current property deeds for each lot.

Chairman Jerome Kerner, AIA

January 22, 2014

Page 3

10. The title of the drawing should include the words "Final Subdivision Plat".
11. The following signature blocks shall appear on the plat:

**APPROVED BY RESOLUTION OF THE  
LEWISBORO PLANNING BOARD**

\_\_\_\_\_  
Jerome Kerner, Chairman                      Date

\_\_\_\_\_  
Lisa Pisera, Secretary                      Date

**TOWN ENGINEER'S CERTIFICATION**

Reviewed for compliance with the Planning Board Resolution dated \_\_\_\_\_.

\_\_\_\_\_  
Joseph M. Cermele, P.E.                      Date  
Town Consulting Engineer  
Kellard Sessions Consulting, P.C

**OWNER'S CERTIFICATION**

The undersigned owners of the property shown hereon is familiar with this drawing(s), its contents, and its legends and hereby approves the same for filing

\_\_\_\_\_  
Brian Rice                      Date

\_\_\_\_\_  
Jonathan Arfa                      Date

\_\_\_\_\_  
Barbara Bernstein                      Date

Chairman Jerome Kerner, AIA

January 22, 2014

Page 4

In order to expedite the review of subsequent submissions, the applicant should provide annotated responses to each of the comments outlined herein.

**Plan Reviewed, prepared by David L. Odell, P.L.S.:**

- “Lot Line Change”

JKJ/JMC/dc

T:\Lewisboro\Correspondence\LW4084JJ-LWPB-RiceArfa-Review-Memo-1-22-14.wpdred

**EMOND/BALANOFF**

**CAL# 111-13WP**

D E M O T T E  
· A R C H I T E C T S ·

December 12, 2013

Jerome Kerner, Chairman & members of the Planning Board  
Lewisboro Town Hall  
Cross River Shopping Center at Orchard Square, Suite L  
20 North Salem Rd.  
Cross River, N.Y. 10518

RE: Emond/Balanoff Residence  
70 Twin Lakes Road  
South Salem, N.Y. 10590

Dear Mr. Kerner & members of the Planning Board,

With regard to the project noted above, 2 issues were brought up in the Town's wetland consultant's (Jan Johannessen) memo dated November 13, 2013. These issues were verbally addressed by me at our first sketch plan review meeting held on November 19, 2013. I met with Jan Johannessen on November 27 to discuss these issues in greater detail, which will be addressed in this letter.

**STORMWATER MANAGEMENT:**

Since there is a net decrease in the impervious area, it was determined that an engineered storm water system will not be required to be installed. As there will be no gutters & leaders on the house, we are proposing an in-ground gutter system around the perimeter of the house. This is a 36" wide by 12" deep gravel trench with a 4" diameter perforated pipe within. The trench is lined with EPDM membrane (or pond liner) and the trench will be continuous around the house, tying into a 4" diameter solid (non-perforated) pipe than will lead to a "level spreader". This level spreader is a 12" deep by 12" wide gravel trench with a 4" diameter perforated pipe within, with capped ends. The level spreader works by dispersing the water over a wider area. During a normal rain, the water will simply be absorbed into the soil. During a heavy rain, the level spreader may appear to be "bubbling", whereby the water bubbles up through the gravel, then gets absorbed into the surrounding earth.

Due to the footprint of the house we are proposing to install 2 level spreaders, one to handle each half of the house. Each level spreader will terminate on the south side of the existing stone wall, being parallel to the stone wall.

The inclusion of the in-ground gutter system & level spreaders has slightly changed the area of disturbance, which has been reflected on our revised site plan. The proposed rear terrace has also be modified slightly due to the in-ground gutter system. The proposed silt

fence south of the existing stone retaining wall has also been extended in length & moved slightly due to the level spreaders.

### **LANDSCAPING/PLANTING PLAN::**

#### **Foundation planting:**

There does not appear to be any concern about the foundation planting around the perimeter of the house, all of which is to be removed for the installation of the in-ground gutter system. All new foundation plantings shall be native plants, with no invasive plants being planted.

#### **Trees/tree removal:**

No trees greater than 8" caliper diameter within the 150' wetlands buffer are to be removed. In fact, no trees whatsoever are to be removed on the property.

#### **Plant removal/new planting within the 50' wetlands buffer:**

The area south of the screened porch (between the screened porch/stone retaining wall & lower deck; see bubbled area on the site plan) is overgrown & shall be cleared of all invasive species. This area is steep & rocky; once cleared, it shall be stabilized by installing a mix of native deer resistant plants ranging from small shrubs, grasses, perennials & groundcovers such as:

#### **Shrubs:**

Summer sweet  
Redosier Dogwood  
Inkberry  
Viburnum

#### **Ferns:**

Marginal wood fern  
Lady Fern  
Maidenhair fern  
Autumn fern  
Deer fern

#### **Perennials:**

Columbine  
Chrysanthemums  
Coreopsis  
Larkspur  
Coneflower  
Joe-Pye weed  
Queen of the Prairie

**Perennials (continued):**

Candytuft  
Gayfeather  
Flax  
Bee Balm  
Black eye Susan  
Goldenrod  
Violet

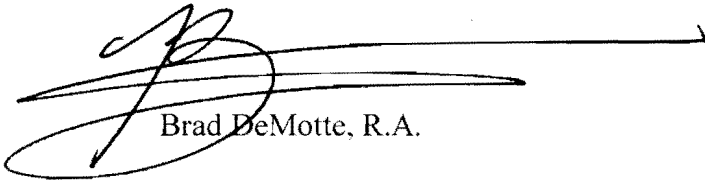
**Grasses:**

Sedge grass  
Maiden grass  
Ribbon grass

One addition has been made to our site plan since our first meeting; a generator is to be installed on the left rear corner of the house.

We look forward our continued discussion of this project with you at the upcoming Planning Board meeting on January 28, 2104.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Brad DeMotte', with a long horizontal line extending to the right.

Brad DeMotte, R.A.

cc: Jean Emond  
Jane Balanoff



**MEMORANDUM**

TO: Chairman Jerome Kerner, AIA and  
Members of the Lewisboro Planning Board

CC: Lisa Pisera  
Lawrence Praga, Esq.

FROM: Jan K. Johannessen, AICP  
Joseph M. Cermele, P.E., CFM  
David J. Sessions, RLA, AICP  
Town Consulting Professionals



DATE: January 22, 2014

RE: Jean Emond and Jane Balanoff  
70 Twin Lakes Road  
Sheet 34B, Block 11831, Lot 36

**Project Description**

The subject property consists of  $\pm 0.65$  acres of land located at 70 Twin Lakes Road and within the R-1/2A Zoning District. The subject property is currently developed and includes a single-family residence, screened porch, front patio, walkways, detached deck, dock, gravel driveway, septic system and well. The applicant is proposing to reconstruct the screened porch and install a new bluestone terrace. The applicant is also proposing to remove the front at-grade patio, replace two (2) bluestone walkways located at the front of the house, install two (2) stone piers at the garage to support architectural columns, repair portions of a walkway leading to the lake, and install a foundation drain and generator. The subject property is located adjacent to Lake Oscaleta; a portion of the screened porch is located within 50 feet of the lake and the remaining site improvements are located within the Town's 150-foot wetland buffer.

**SEQRA**

The proposed action is a Type II Action and is categorically exempt from the State Environmental Quality Review Act (SEQRA).

**Required Approvals**

1. A Wetland Activity Permit is required from the Planning Board.
2. A public hearing is required to be held on the Wetland Activity Permit.

**Comments**

1. The applicant has satisfactorily responded to our previous comments and recommendations.
2. The inground gutter drain is proposed to be located in close proximity to the existing well; the applicant may wish to modify the configuration of the drain in this area to avoid damage and/or potential contamination to the well.
3. The level spreader detail should be modified to include filter fabric to maintain separation between the washed gravel and surrounding soils.
4. The applicant is proposing a generator; however, the fuel source is unknown. Any exterior fuel connections/trenching associated with the generator should be illustrated on the plan.
5. If land disturbance exceeds 5,000 s.f., the applicant will require a Town Stormwater Permit and must comply with the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001).

In order to expedite the review of subsequent submissions, the applicant should provide annotated responses to each of the comments outlined herein.

**Plans Reviewed, prepared by Demotte Architects and dated (last revised) December 6, 2013:**

- "Site Plan" (SP-1)
- "Site Details" (SP-2)

**Documents Reviewed:**

- Letter from DeMotte Architects, dated December 12, 2013

JKJ/JMC/DJS/dc

**TO:** Town of Lewisboro Planning Board

**FROM:** Lewisboro Conservation Advisory Council (CAC)

**SUBJECT:** Emond/Balanoff  
70 Twin Lakes Road, South Salem, NY  
Site Plan and Wetland Activity Approvals

**DATE:** January 14, 2014

---

The Conservation Advisory Council (CAC) has reviewed the site plan for the proposed alterations at 70 Twin Lakes Road.

The plans prepared by Demonte Architects, are accompanied by a letter from the architects specifically addressing Stormwater Management, and Landscaping/Planting Plans.

The following additional specific concerns and questions arise from our review of the plans, documents, and drawings at our January 6, 2014 meeting:

- The accompanying documentation, in a letter dated December 12, 2013, indicated that no trees will be removed on the property. Based on this assurance, we would ask that that statement that no trees are to be removed should be added to the plans.
- A list of potential species for planting was shown. We suggest that more details be provided, that the species, quantity, and sizes of mitigating plantings should be specified, and that any planting near the lake will be done by hand, as opposed to bringing in any machinery.
- The plans do not show the where a fuel tank will be located, if not integral to the newly proposed generator. We would appreciate knowing the fuel type for the proposed generator.

**0-2 LIVING**

**CAL# 11-13PB**

# TOWN OF LEWISBORO PLANNING BOARD

Onatru Farm, 99 Elmwood Rd, South Salem, New York 10590 TEL (914) 763-5592 / FAX (914) 763-3637  
e-mail [planning@lewisborogov.com](mailto:planning@lewisborogov.com)

## APPLICATION FOR WAIVER OF SITE DEVELOPMENT PLAN PROCEDURES

0.2 LIVING REALTY GROUP LLC (YELLOW MONKEY VILLAGE) RB W/SPECIAL CHARACTER OVERLAY

project name \_\_\_\_\_ zoning district \_\_\_\_\_

792 ROUTE 35 CROSS RIVER NEW YORK 10518 18 10533 24825

site location \_\_\_\_\_ tax sheet \_\_\_\_\_ block \_\_\_\_\_ lot \_\_\_\_\_

.8450 site acreage Is the site located within 500 FT of any Town boundary? YES \_\_\_\_\_ NO ☒

8352 existing gross floor area Is the site located within the New York City Watershed? YES ☒ NO \_\_\_\_\_

NONE proposed gross floor area Is the site located on a State or County Highway? Route # 35 YES ☒ NO \_\_\_\_\_

ANDREW WYNNIK ARCHITECT 532 WEST 30th STREET NYC NY 10001 212 982-7708

engineer's name \_\_\_\_\_ address \_\_\_\_\_ phone \_\_\_\_\_

LINK LAND SURVEYORS P.C. 21 CLARK PLACE, SUITE 1-B 845-628-5857

surveyor's name \_\_\_\_\_ address MAHDAC N.Y. 10541 phone \_\_\_\_\_

THIS APPLICATION IS FOR THE FOLLOWING ACTIVITY: (check one)

- ☒ CHANGE FROM AN APPROVED USE TO ANOTHER PERMITTED USE.  
☒ REVISION TO AN APPROVED SITE DEVELOPMENT PLAN.  
☐ CONFORMING IMPROVEMENT NOT REQUIRING PHYSICAL SITE WORK SUBJECT TO REVIEW.

ALL APPLICATION DOCUMENTS SHALL BE COLLATED INTO THIRTEEN (13) COMPLETE SETS.

### THE FOLLOWING MATERIALS SHALL BE ATTACHED:

- ☐ DETAILED WRITTEN DESCRIPTION OF PROPOSED ACTIVITY per Section 220-47 of the Zoning Ordinance.  
☐ DATE OF: \_\_\_\_\_, AND COPY OF APPROVED SITE DEVELOPMENT PLAN with Planning Board signatures.  
☒ ANNOTATED SITE PLANS, MAPS, SKETCHES OR DRAWING showing proposed activity.  
☒ ADDENDUM SITE DATE FORM attach completed Site Date Firm to this application.  
☒ SEQR SHORT ENVIRONMENTAL ASSESSMENT FORM.  
☒ COMPLETED AFFIDAVIT OF OWNERSHIP FORM certifying owner of record as of date of the application.  
☒ COMPLETED AFFIDAVIT FORM RECEIER OF TAXES certifying payment of all taxes and assessments due.  
☐ FILING FEE: See attached Application Fee Schedule. Check(s) payable to: *Town of Lewisboro*.  
☐ INITIAL ESCROW DEPOSIT payable to: *Town of Lewisboro* (see Planning Board Secretary).

I, the undersigned, hereby certify that the application is complete and that the fee has been paid in full. I am not aware of any other persons who have an interest in the application. I am not aware of any other persons who have an interest in the application. I am not aware of any other persons who have an interest in the application.

ROSEMARY DEVLIN 192 RT 35, CROSS RIVER 10518 Rosemary Devlin  
applicant's name address phone signature date

ROSEMARY DEVLIN 192 RT 35, CROSS RIVER NY 10518 Rosemary Devlin  
owner's name address phone signature date

Date of receipt by Planning Board Secretary \_\_\_\_\_ Application ID: WSDP # \_\_\_\_\_

APPLICATION FOR WAIVER OF SITE PLAN DEVELOPMENT

O-2 LIVING REALTY GROUP  
(YELLOW MONKEY VILLAGE)  
792 ROUTE 35  
CROSS RIVER, NEW YORK 10518

DETAILED WRITTEN DESCRIPTION OF PROPOSED ACTIVITY

- 1.) CHANGE FROM AN APPROVED USE TO ANOTHER APPROVED USE.
- 2.) PROVIDE ADD'L PAVING AS REQUIRED TO MEET UPDATED HANDICAPPED PARKING AND ACCESSIBILITY STANDARDS

2321

CROSS RIVER WELLNESS LLC 04-09

792 ROUTE 35  
CROSS RIVER, NY 10518

DATE 12/23/13

1-2  
210 416

PAY  
TO THE  
ORDER OF

Town of Lewisburg

Two Hundred and five Dollars

\$205. <sup>00</sup>/<sub>100</sub>

DOLLARS

**CHASE**

JPMorgan Chase Bank, N.A.  
www.Chase.com

FOR

*Michael Dineen*

⑈002321⑈ ⑈021000021⑈

794234211⑈

THOMAS P DEVLIN  
ROSEMARY C DEVLIN  
1 ROLAND RD  
IRVINGTON, NY 10533

Beyond Banking®

7729  
87-176/843

12.30/2013 Date

Pay to the  
Order of


Town of Lewisboro

\$3500. <sup>00</sup>/<sub>100</sub>

Three thousand five hundred dollars

Dollars



 Merrill Lynch

Bank of America

For *cash*

*Rosemary Devlin*

MP

⑆084301767⑆ 041112595062⑆7729



# TOWN OF LEWISBORO PLANNING BOARD

Onatru Farm, Elmwood Road, South Salem, New York 10590 • TEL (914) 763-5592 / FAX (914) 763-3637

## ADDENDUM SITE DATA FORM

application type (check one)

☐ SITE DEVELOPMENT PLAN

☐ SPECIAL PERMIT USE

YELLOW MONKEY VILLAGE (O-2 LIVING REALTY GROUP LLC)

project name

792 ROUTE 35, CROSS RIVER NEW YORK 10518

site location

RB W/SPECIAL CHARACTER OVERLAY

zoning district

18 10533 24225

tax sheet

block

lot

ZONING BULK REGULATION	REQUIRED	EXISTING	PROPOSED	TOTAL
MINIMUM LOT AREA (ACRES)	.5	.8450	NO CHANGE	.8450
MINIMUM STREET FRONTAGE (LF)	100'-0"	166'-0"	NO CHANGE	166'-0"
MINIMUM STREET CENTER LNE YARDS (LF)	45'-0"	NOT AVAILABLE	NO CHANGE	
FRONT	20'-0"	21.3	NO CHANGE	
SIDE	15'-0"	19.5 MIN - 17.2'	NO CHANGE	
REAR	15'-0"	103' MIN	NO CHANGE	
MINIMUM LANDSCAPE BUFFERS (LF)				
FRONT	15'-0"	15'-0"	NO CHANGE	
SIDE	15'-0"	VARIES - 14.5' MIN	NO CHANGE	
REAR	15'-0"	WETLAND BORDER	NO CHANGE	
NUMBER OF DWELLING UNITS	NA	NA	NA	NA
GROSS FLOOR AREA (SF)	-	8352	NO CHANGE	
BUILDING FOOTPRINT (SF)	-	4766.5	NO CHANGE	
BUILDING COVERAGE (%)	-	12.9%	NO CHANGE	
BUILDING HEIGHT (FEET)	30'-0" MAX	30'-0"	NO CHANGE	
STORES	2 1/2	2 1/2	NO CHANGE	
FLOOR AREA RATIO (FAR)	30%	23%	NO CHANGE	
PARKING SPACES	43	31	29	29
LOADING SPACES	1	1	1	1
SITE COVERAGE (%)	60% MAX	19%	NO CHANGE	

### OFF-STREET PARKING AND LOADING CALCULATIONS

Provide the specific calculation used to determine the number of off-street parking and loading spaces required per the Zoning Ordinance.

PARKING CALCULATION (round up): 43 - PLEASE SEE CALCULATIONS ATTACHED

LOADING CALCULATION (round up): 1 1/2 SPACE FOR FIRST 4000 SQ FT GROSS FLOOR AREA

ROSEMARY DEVLIN

applicant's name

GROUP

address

792 ROUTE 35 CROSS RIVER NY 10518

phone

914-763-6320

signature

Rosemary Devlin

date

O2 LIVING Realty LLC

owner's name

address

792 ROUTE 35 CROSS RIVER NY 10518

phone

914-763-6320

signature

Rosemary Devlin

date

Date of receipt by Planning Board Secretary: \_\_\_\_\_

Application ID: SDP# \_\_\_\_\_ or SP# \_\_\_\_\_

SCHEDULE OF USES/OCCUPANCIES

BUILDING NO.	LOCATION	EXISTING USE	PROPOSED USE	GROSS SQ. FT.	PARKING REQ'TS	PARKING CALC.	PARKING REQ'D	PARKING PROVIDED
2	ENTRY LEVEL	VACANT	RETAIL	695	1 SPACE/200 GROSS SQ. FT.	3.5	4	
	UPPER LEVEL	ART GALLERY/ RETAIL	RETAIL	695	1 SPACE/200 GROSS SQ. FT.	3.5	4	
3	ENTRY LEVEL	VACANT	RETAIL	274	1 SPACE/200 GROSS SQ. FT.	1.4	2	
4	ENTRY LEVEL	VACANT	RETAIL	769	1 SPACE/200 GROSS SQ. FT.	3.8	4	
	UPPER LEVEL	VACANT	RETAIL	769	1 SPACE/200 GROSS SQ. FT.	3.8	4	
5	ENTRY LEVEL	VACANT	RETAIL	427	1 SPACE/200 GROSS SQ. FT.	2.1	3	
	UPPER LEVEL	VACANT	RETAIL	427	1 SPACE/200 GROSS SQ. FT.	2.1	3	
6	ENTRY LEVEL	LIMITED SERVICE CARRYOUT REST / SEATING LIMITED TO 10 OR FEWER SEATS	LIMITED SERVICE CARRYOUT REST./ SEATING LIMITED TO 10 OR FEWER SEATS	520	1 SPACE/200 GROSS SQ. FT.	2.6	3	
	UPPER LEVEL	STORAGE	STORAGE	NA		NA	NA	
7	ENTRY LEVEL	RETAIL	RETAIL	377	1 SPACE/200 GROSS SQ. FT.	1.8	2	
	UPPER LEVEL	YOGA/RECREATION	YOGA/RECREATION	377	1 SPACE/200 GROSS SQ. FT.	1.8	2	
8	ENTRY LEVEL	RETAIL	RETAIL	140	1 SPACE/200 GROSS SQ. FT.	0.7	1	
9	ENTRY LEVEL	SPA/SERVICES	SPA/SERVICES	480	1 SPACE/200 GROSS SQ. FT.	2.4	3	
	UPPER LEVEL	YOGA/RECREATION	YOGA/RECREATION	480	1 SPACE/200 GROSS SQ. FT.	2.4	3	
10	ENTRY LEVEL	RETAIL/COMMISSARY	RETAIL/COMMISSARY	490	1 SPACE/200 GROSS SQ. FT.	2.5	3	
	UPPER LEVEL	VACANT	OFFICE	490	1 SPACE/250 GROSS SQ. FT.	2	2	
				7410		36.4	43	29

617.20  
Appendix B  
Short Environmental Assessment Form

**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: 0-2 LIVING REALTY GROUP			
Project Location (describe, and attach a location map): 792 ROUTE 35 CROSS RIVER NEW YORK			
Brief Description of Proposed Action: PROVIDE HANDICAPPED ACCESSIBLE PARKING & ACCESSWAYS PER CODE REQUIREMENTS CHANGE FROM AN APPROVED USE TO ANOTHER PERMITTED USE.			
Name of Applicant or Sponsor: 0-2 LIVING REALTY GROUP LLC		Telephone: 914-763-6320	
		E-Mail: ROSEMARY@02LIVING.RE	
Address: 792 ROUTE 35			
City/PO: CROSS RIVER		State: N.Y.	Zip Code: 10518
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?			NO YES
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.			<input checked="" type="checkbox"/> <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency?			NO YES
If Yes, list agency(s) name and permit or approval: TOWN OF LEWISBORO PLANNING BOARD, TOWN BUILDING DEPT.			<input type="checkbox"/> <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		.840 acres	
b. Total acreage to be physically disturbed?		0 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			

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: <u>ADJACENT TO CROSS RIVER RESERVOIR FILL</u> <u>STEM</u>	<input type="checkbox"/>	<input checked="" 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 service(s) 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 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 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 site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	<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 type="checkbox"/>	<input checked="" 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:			
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 checked="" 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	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES	
If Yes,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES			
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? <input type="checkbox"/> NO <input type="checkbox"/> YES			
If Yes, briefly describe:			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
	<input checked="" type="checkbox"/>	<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	YES
	<input checked="" type="checkbox"/>	<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	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b> Applicant/sponsor name: <u>OZ LIVING REALTY GROUP LLC</u> Date: <u>12/24/13</u> Signature: <u><i>Rosemary Reed</i></u>		

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Date

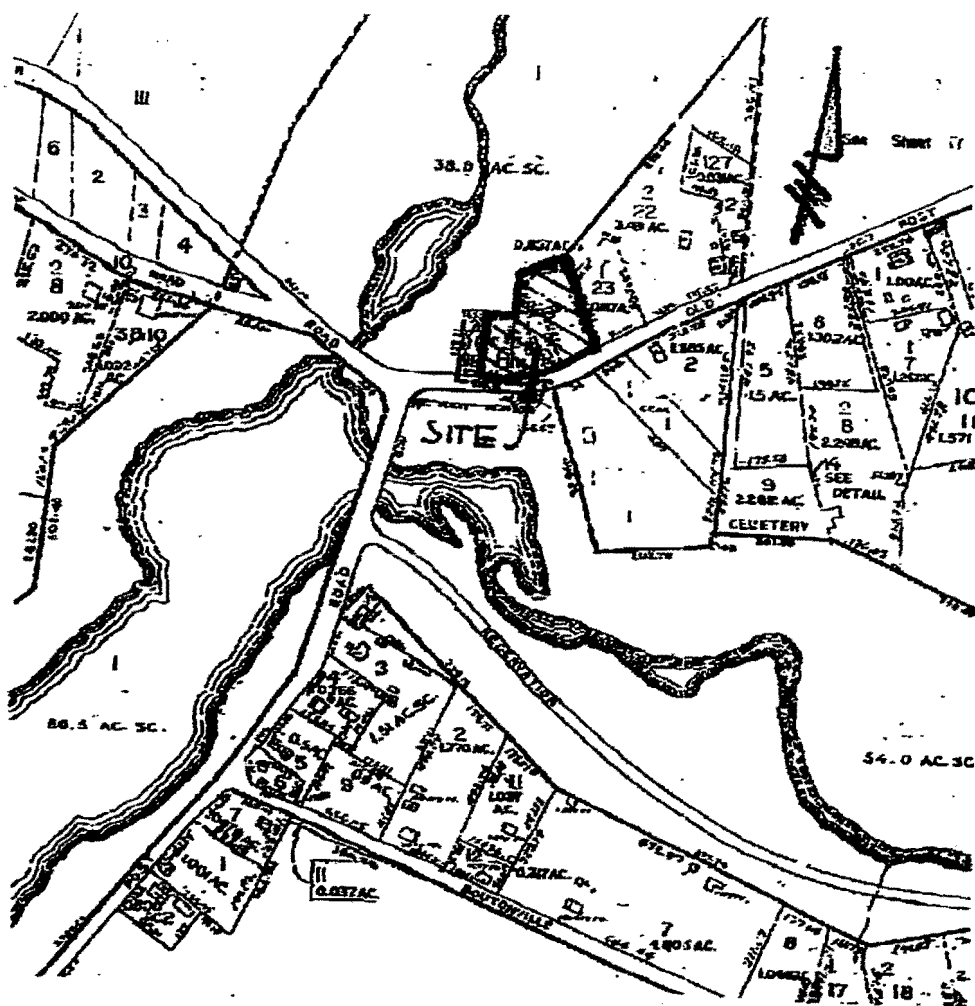
\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from Responsible Officer)

**PRINT**



## LOCATION MAP

N.T.S.

AFFIDAVIT OF OWNERSHIP

STATE OF New York  
COUNTY OF Westchester ss:

Rosemary Dealing, being duly sworn, deposes and says that  
she/~~he~~ resides at 1 Beland Road Tarrytown NY  
in the County of: Westchester

State  
of: New York

And that she/~~he~~ is (check one) (1) the owners, or (2) the Partner  
Title  
of C2 Living Realty LLC  
name of corporation, partnership or other legal entity

which is the owner, in fee of all that certain lot, piece or parcel of land situated, lying  
and being in the Town of Lewisboro, New York, aforesaid and known and designated  
on the Tax Map in the Town of Lewisboro as Lot Number 24 - 25  
Block 10533 on sheet 18.

For (check one):

- ☒ SKETCH PLAN REVIEW    ☐ PRELIMINARY SUBDIVISION PLAT    ☐ FINAL SUBDIVISION PLAT  
☐ SITE DEVELOPMENT PLAN    ☐ SPECIAL USE PERMIT    ☐ WAIVER OF SITE PLAN PROCEDURES  
☐ WETLAND PERMIT    ☐ STORMWATER PERMIT    ☐ FILING WITH WESTCHESTER COUNTY CLERK

Rosemary Dealing  
Signed

Sworn to before me this

11<sup>th</sup> day of December, 2013

Olive M. Graham  
Notary public (affix stamp) Olive M. Graham  
Notary Public, State of New York  
ID Number: 01GR5006932  
Qualified in New York County  
Commission Expires: January 19, 2015



## TAX PAYMENT AFFIDAVIT REQUIREMENT

Under regulations adopted by the Town of Lewisboro, the Planning Board may not accept any application unless an affidavit from the Town of Lewisboro Receiver of Taxes is on file in the Planning Board office. The affidavit must show that all amounts due to the Town of Lewisboro as real estate taxes and special assessments on the total area encompassed by the application, together with all penalties and interest thereon, have been paid.

Under New York State Law, the Westchester County Clerk may not accept any subdivision map for filing unless the same type of affidavit from the Town of Lewisboro Receiver of Taxes is submitted by the applicant at the time of filing.

### INSTRUCTIONS

The applicant is to complete the information box below and on the opposite side and return to:  
Receiver of Taxes, Town of Lewisboro, Town House, Main Street, South Salem, New York 10590

For Planning Board applications, the Receiver of Taxes will return this form and the affidavit to the Planning Board office. For filing actions with the Westchester County Clerk, Division of Land Records, the Receiver of Taxes will return this form and the affidavit to the applicant by mail if a stamped and self-addressed envelope is submitted with this form.

**IF ANY TAXES ARE FOUND TO BE DUE ON THE PROPERTY RELATING TO THE APPLICATION, THEN THAT APPLICATION CAN NOT BE ACCEPTED BY THE PLANNING BOARD UNTIL THE TAXES ARE PAID.**

#### TO BE COMPLETED BY APPLICANT (PLEASE TYPE OR PRINT)

<u>0-2 LIVING REALTY GROUP LLC</u> name of applicant	<u>YF 0-2 LIVING REALTY GROUP LLC (NEWBURY VILLAGE)</u> project name
application type (check one):	
<input type="checkbox"/> SKETCH PLAN REVIEW	<input type="checkbox"/> PRELIMINARY SUBDIVISION PLAT
<input type="checkbox"/> SITE DEVELOPMENT PLAN	<input type="checkbox"/> SPECIAL PERMIT USE
<input type="checkbox"/> WETLANDS PERMIT	<input checked="" type="checkbox"/> WAIVER OF SITE PLAN PROCEDURES
<input type="checkbox"/> FILING WITH THE WESTCHESTER COUNTY CLERK	
property description:	property assessed to:
▶ BLOCK <u>10533</u>	▶ name <u>0-2 LIVING REALTY GROUP LLC</u>
▶ LOT <u>24 &amp; 25</u>	▶ address <u>792 ROUTE 35</u>
▶ SHEET <u>18</u>	<u>CROSS RIVER, NEW YORK 10518</u>

State of New York )  
County of Westchester ) ss:

The undersigned, being duly sworn, deposes and says that a search of the tax records in the Office of the Receiver of Taxes, Town of Lewisboro reveals that all amounts due to the Town of Lewisboro as real estate taxes and special assessments, together with all penalties and interest thereon, affecting the premises described above, have been paid:

\_\_\_\_\_  
Receiver of Taxes

\_\_\_\_\_  
Deputy Receiver

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

Summary of business plan prepared for Town of Lewisboro Building inspector as of January 24<sup>th</sup>, 2013. (Revised 3-28-13)

O-2 Living is a provider of super premium juices and food plans in NY Westchester County. The organic foods and healthy lifestyle industry is growing rapidly as consumers' awareness of health and wellness increases. There is increasingly more research that shows the link between health and wellness to fresh organic foods and exercise – O-2 Living provides holistic spa treatments, yoga and a retail store for yoga clothes and holistic wellness products.

The value proposition of "Building a Community for Healthy Living" generates a loyal following, and dedicated customer in its core customer segment, women age 25-55. By offering an integrated set of products and services, juices, food plans, yoga and spa services O-2 Living aspires to integrate this cohesive practice by identifying the existing home of O-2 Living, Yellow Monkey Village, 792 Route 35, Cross River as it's main headquarters.

O-2 Living's intentions would be to expand the kitchen location, permitting food to be cooked and prepared in BUILDING 10. The space would require minor plumbing, electrical (if needed) alterations accordance to the Town of Lewisboro Building codes and regulations. The stairs would be reopened to accommodate access to storage and refrigeration below, 2nd floor would also be used for commissary storage and packaging for O-2 Living.

A retail area with access for the public to purchase items produced within the commissary is provided at the main entrance to the space. There will be a service counter, point of sale and wall mounted menu indicating all the items for sale. No seating will be provided.

No other changes would incur

BUILDING #6 CURRENTLY CAFÉ

BUILDING #8 CURRENTLY RETAIL

BUILDING #7 CURRENTLY RETAIL WITH YOGA ABOVE (BATHROOM GROUND)

BUILDING #9 CURRENTLY SPA WITH YOGA ABOVE AND BATHROOM.

BUILDING #10 – ONLY CHANGE TO BE MADE WOULD BE FUTURE KITCHEN AND FOOD PREP ALREADY APPROVED BY THE BOARD OF HEALTH.

We have engaged Bibbo Associates to consult on any engineering concerns as per Lewisboro Building codes and regulations. A ramp may be required at the back garage and drainage assessed for truck access loading and unloading, (Currently loading and unloading).

The O-2 Living story has appeal and benefits with on-line presence expanding rapidly. Please visit us on line at <http://www.o2living.com> if any further understanding of business concept is required. Photographs are available on-line of products, store, studios and buildings.

We look forward to moving forward as the space is needed urgently for this growing business.

Prepared by Rosemary Devlin, Founder of O-2 Living. 02/05/2013.



\*451230786EAS1\*

Control Number  
451230786WIID Number  
2005123-000252Instrument Type  
EAS

WESTCHESTER COUNTY RECORDING AND ENDORSEMENT PAGE  
(THIS PAGE FORMS PART OF THE INSTRUMENT)  
\*\*\* DO NOT REMOVE \*\*\*

THE FOLLOWING INSTRUMENT WAS ENDORSED FOR THE RECORD AS FOLLOWS:

TYPE OF INSTRUMENT EAS - EASEMENT

FEE PAGES 11

TOTAL PAGES 11

## RECORDING FEES

STATUTORY CHARGE	\$6.00
RECORDING CHARGE	\$33.00
RECORD MGT. FUND	\$19.00
RP 5217	\$0.00
TP-584	\$5.00
CROSS REFERENCE	\$0.00
MISCELLANEOUS	\$0.00
<b>TOTAL FEES PAID</b>	<b>\$63.00</b>

## TRANSFER TAXES

CONSIDERATION	\$0.00
TAX PAID	\$0.00
TRANSFER TAX #	18907

RECORDING DATE 05/17/2005  
TIME 12:02:00

## MORTGAGE TAXES

MORTGAGE DATE	
MORTGAGE AMOUNT	\$0.00
EXEMPT	
COUNTY TAX	\$0.00
YONKERS	\$0.00
BASIC	\$0.00
ADDITIONAL	\$0.00
SUBTOTAL	\$0.00
MTA	\$0.00
SPECIAL	\$0.00
<b>TOTAL PAID</b>	<b>\$0.00</b>

SERIAL NUMBER  
DWELLING

THE PROPERTY IS SITUATED IN  
WESTCHESTER COUNTY, NEW YORK IN THE  
TOWN OF LEWISBORO

WITNESS MY HAND AND OFFICIAL SEAL

LEONARD N. SPANO  
WESTCHESTER COUNTY CLERK

Record & Return to:  
COURT ST ABSTRACT INC  
99 COURT ST

WHITE PLAINS, NY 10601

#786

10p  
Low.

### EASEMENT AGREEMENT

THIS AGREEMENT, made this 9<sup>th</sup> day of April, 2005 by and between Village Associates, LLC, a New York limited liability company with a mailing address of 126 Barker Street, Mount Kisco, New York 10549 ("VA"), and Cross River Holding LLC, a New York limited liability company with a mailing address of P.O. Box 3917 Cross River, New York 10518 ("CRH"). \*792 ROUTE 35, OLD POST RD.

WHEREAS, VA is the owner of real property located on Route 35 in the Town of Lewisboro, Westchester County, New York known and designated on the tax map of the said Town of Lewisboro as Section 18, Block 10533, Lot 18, as more fully described on Schedule A annexed hereto and made a part hereof (the "VA Property"); and

WHEREAS, CRH is the owner of real property adjoining the VA Property known and designated on the tax map of the Town of Lewisboro as Section 18, Block 10533, Lots 26 and 27, as more fully described on Schedule B annexed hereto and made a part hereof (the "CRH Property" and, together with the VA Property, the "Properties"); and

WHEREAS, there currently exists on the VA Property a septic system which is utilized exclusively by VA (the "VA Septic System"); and

WHEREAS, there currently exists on the CRH Property two septic systems which are utilized exclusively by CRH (the "CRH Septic Systems"); and

WHEREAS, there currently exists on the Properties a well and water distribution system (the "Water System") which services the Properties; and

WHEREAS, the parties derive access to their respective properties over the existing common driveway (the "Common Driveway") and each party desires to grant to the other party easements over portions of their respective properties for access, ingress and egress; and

WHEREAS, the parties intend to share the use and maintenance of all parking areas located on the Properties (the "Parking Areas") and each party desires to grant to the other party an easement over those portions of its respective property for the use and maintenance of such areas; and

WHEREAS, the parties desire to set forth herein their respective rights and obligations with respect to the foregoing and certain other matters as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises of the parties, the parties agree as follows:

**The Septic Systems**

1. The CRH Septic Systems shall be for the exclusive use of CRH which shall be solely responsible for the cost of maintenance, upkeep and improvement of said systems.
2. CRH shall have an easement and the right to hook-up to and use the VA Septic System. This easement and the right to use the VA Septic System shall be limited to ordinary retail, office or domestic purposes. All costs for CRH to hook-up to the VA Septic System shall be borne by CRH.
3. Until such time as CRH shall hook-up to and make use of the septic system on the VA Property, all costs and expenses of maintaining, repairing and improving the VA Septic System shall be borne exclusively by VA. At such time as CRH shall have hooked-up to and makes use of the VA Septic System, the costs and expenses of maintaining, repairing, replacing and improving the VA System shall be borne equally by VA and CRH.

**The Water System**

4. The VA Property is currently served (in common with the CRH Property) by a well or wells (collectively, the "Well"), well pump, storage tank and distribution system located on the CRH Property. VA shall have an easement and the right to the use of all portions of the Water System located on the CRH Property (including, without limitation, use of water from the Well and to draw the same through the existing pipes and any replacements thereof), said use being in common with CRH. This easement and the right to use the Water System is limited to ordinary retail (including coffee shop, deli and similar uses), office or domestic purposes.
5. All costs and expenses of maintaining, repairing, replacing and improving the Water System shall be borne equally by VA and CRH.
6. The parties agree to cooperate with each other and to use their best efforts to create within two (2) years from the date hereof separate water supply and/or distribution systems for each of the properties. All costs associated with creating such separate systems shall be borne equally by VA and CRH. When separate systems are created, then, at such time, each of the parties shall be responsible for the costs and expenses of maintaining, repairing, replacing and improving those portions of the Water System that exclusively services their respective properties and the parties shall continue to share equally the costs and expenses of maintaining, repairing, replacing and improving those portions of the Water System that continue to be shared by the parties.

**Common Driveway**

7. The parties hereby grant and convey to each other an easement for the purpose of maintaining, repairing, replacing and using, in common with each other, the existing common driveway that services the Properties (the "Common Driveway") and which is located partially on the VA Property and partially on the CRH Property as more fully described on Schedule C annexed hereto and made a part hereof, and making driveway, paving and drainage connections therewith.

8. CRH hereby grants to VA an easement for the purpose of using, in common with CRH, the existing driveway that is located on westerly portion of the CRH Property (the "CRH Driveway").

9. The parties shall share equally the costs and expenses of maintaining, repairing and replacing the Common Driveway and the CRH Driveway, provided that any such maintenance, repairs and replacements are reasonably necessary for the continued use of the Common Driveway and the CRH Driveway. The work to be undertaken and performed shall include and be limited to the following: snow plowing, grading, resurfacing with blacktop/macadam, gravel and/or similar materials. Should other or additional maintenance, repairs and replacements need to be done, same shall not be undertaken without the prior written consent of both of the parties to this agreement.

**Parking Areas**

10. Each party hereby grants and conveys to the other party an easement for the purpose of maintaining, repairing, replacing and using, in common with the other party, the parking areas located on the Properties (the "Parking Areas"). The parties hereto will not diminish the parking area denoted on Schedule D annexed hereto.

11. The parties shall share equally the costs and expenses of maintaining, repairing and replacing the Parking Areas. The work to be undertaken and performed shall include and be limited to the following: snow plowing, grading, resurfacing with gravel and similar materials. Should other or additional maintenance, repairs or replacements need to be done, same shall not be undertaken without the prior written consent of both of the parties to this agreement.

**Miscellaneous**

12. Each party shall have the right to improve and use the easements granted herein provided such use is in compliance with all applicable municipal laws, rules and regulations and the provisions of this Easement Agreement.

13. Neither party shall obstruct, cause to be obstructed, or otherwise interfere with the reasonable use of the easements granted herein.

14. By accepting the easements granted herein, each party indemnifies and holds harmless the other party from any and all loss, claim or damage (including, without limitation, any injury to persons or property), including reasonable attorney's fees, which may arise out of or relate to the exercise of the rights and obligations set forth herein.

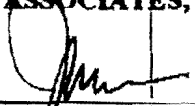
15. This Agreement, the easements created hereby, and all of the covenants, agreements and rights granted herein shall be deemed to run with the land of the respective parties in perpetuity and shall be binding on the parties and the respective successors, personal representatives and assigns of the parties.

16. Whenever the sense of this Agreement may make it necessary or appropriate, any singular word or term used herein shall include the plural, and any masculine word or term used shall include the feminine.

17. Any notice required under this Agreement shall be sent to the parties at the respective addresses indicated in this Agreement, unless such addresses change by written notice to the other party, in which event the new address given shall be used for the sending of such notice. Any required notice shall be made by certified mail, return receipt requested.

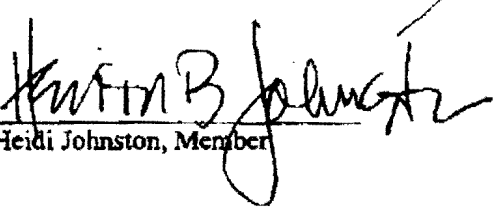
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above stated.

VILLAGE ASSOCIATES, LLC  
BY ITS SOLE MEMBER:  
NAG ASSOCIATES, LLC

By:   
John L. Arons, Member

By:   
Daniel Ginnel, Member

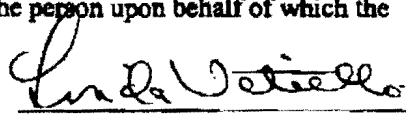
CROSS RIVER HOLDING LLC

By:   
Heidi Johnston, Member

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

On the ~~2nd~~ <sup>7th</sup> day of ~~March~~ <sup>April</sup> in the year 2005 before me, the undersigned, personally appeared John L. Arons, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

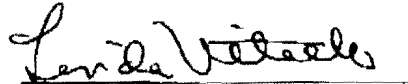
LINDA VITIELLO  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01V6032061  
QUALIFIED IN WESTCHESTER COUNTY  
COMMISSION EXPIRES OCTOBER 18, 2015

  
Notary Public

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

On the ~~2nd~~ <sup>7th</sup> day of ~~March~~ <sup>April</sup> in the year 2005 before me, the undersigned, personally appeared Daniel Ginnel, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

LINDA VITIELLO  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01V6032061  
QUALIFIED IN WESTCHESTER COUNTY  
COMMISSION EXPIRES OCTOBER 18, 2015

  
Notary Public

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

On the \_\_\_\_\_ day of March in the year 2005 before me, the undersigned, personally appeared Heidi Johnston, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public



STATE OF CONNECTICUT )

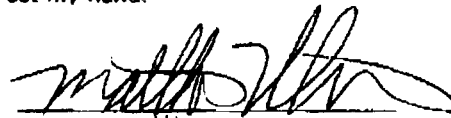
) ss: Stamford

April 8, 2005

COUNTY OF FAIRFIELD )

On this the 8th day of April, 2005, before me, Matthew Klein, the undersigned officer, personally appeared Heidi B. Johnston, known to me, who acknowledged herself to be the Operating Manager and Member of Cross River Holding LLC, and that she as such Operating Manager and Member, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, and who duly acknowledged the execution of the same to be her free act and deed individually and as such Operating Manager and Member, and the free act and deed of said entity for the purposes therein contained, by signing the name of the entity by herself as such Operating Manager and Member in Stamford Connecticut, Fairfield County.

IN WITNESS WHEREOF, I hereunto set my hand.

  
Matthew Klein  
Commissioner of the Superior Court  
Notary Public

people/cross/2note

Mar. 24. 2005 2:54PM

t Street Abstract

No. 9382 P. 7/12

**Schedule A Description**

Title Number CSA04-02234-W

Page 1

ALL that certain lot, piece or parcel of land with all improvements thereon situate, lying and being in the Town of Lewisboro, County of Westchester and State of New York, said parcel being more particularly bounded and described as follows:

BEGINNING at a point on the northerly boundary line of Old Post Road (Route 35) at its intersection with the division line of property now or formerly belonging to Ralph E. Felice and J. Waidle Gullen on the West and of property now or formerly belonging to Lee Hardesty, Inc. on the East;

THENCE northerly along said division line, North 05 degrees 20 minutes 10 seconds West 174.10 feet to a point on the southerly boundary line of property now or formerly belonging to the City of New York;

THENCE easterly along the southerly boundary line of property now or formerly belonging to the City of New York and along the southerly face of a stone wall, North 84 degrees 21 minutes 15 seconds East 68.00 feet to a point;

THENCE easterly along the division line of property now or formerly belonging to Lee L. Hardesty on the North and of property now or formerly belonging to Lee Hardesty, Inc. on the South, North 59 degrees 31 minutes 10 seconds East 33.00 feet to a point;

THENCE southerly along the division line of property now or formerly belonging to Lee L. Hardesty on the East and property now or formerly belonging to Lee Hardesty, Inc. on the West, South 17 degrees 18 minutes 20 seconds East 75.21 feet and South 18 degrees 59 minutes 30 seconds East 102.21 feet to a point on the northerly boundary line of Old Post Road (Route 35);

THENCE westerly along said northerly boundary line of Old Post Road (Route 35), South 86 degrees 13 minutes 40 seconds West 31.25 feet and South 81 degrees 35 minutes 00 seconds West 106.11 feet to the point or place of BEGINNING

Mar. 24. 2005 2:54PM

rt Street Abstract

No. 9382 P. 8/12

**Schedule B Description**

Title Number CSA04-02234-WB

Page 1

ALL that certain lot, piece or parcel of land with all improvements thereon situate, lying and being in the Town of Lewisboro, County of Westchester and State of New York, said parcel being more particularly bounded and described as follows:

BEGINNING at a point on the northerly boundary line of Old Post Road (Route 35) at its intersection with the division line of property now or formerly belonging to Owen L. & Janice R. Craighead on the East and of property now or formerly belonging to Lee L. Hardesty on the West;

THENCE westerly along the northerly boundary line of Old Post Road (Route 35), South 49 degrees 14 minutes 10 seconds West 100.00 feet and South 49 degrees 37 minutes 20 seconds West 66.00 feet to a point;

THENCE northerly along said division line of property now or formerly belonging to Lee L. Hardesty on the East and of property now or formerly belonging to Lee Hardesty, Inc. on the West, North 18 degrees 59 minutes 30 seconds West 102.21 feet and North 17 degrees 18 minutes 20 seconds West 75.21 feet to a point;

THENCE westerly along the division line of property now or formerly belonging to Lee L. Hardesty on the North and of property now or formerly belonging to Lee Hardesty, Inc. on the South, 59 degrees 31 minutes 10 seconds West 35.00 feet to a point on the easterly boundary line of property now or formerly belonging to the City of New York;

THENCE northerly and easterly along the easterly and southerly face of a stone wall and along lands now or formerly belonging to the City of New York on the West and North and along property now or formerly belonging to Lee L. Hardesty on the East and South respectively, North 05 degrees 28 minutes 30 seconds West 108.36 feet and North 55 degrees 01 minutes 30 seconds East 114.38 feet to a point on the westerly boundary line of property now or formerly belonging to Owen L. & Janice R. Craighead;

THENCE southerly along the division line of property now or formerly belonging to Owen L. & Janice R. Craighead on the East and of property now or formerly belonging to Lee L. Hardesty on the West, South 30 degrees 15 minutes 27 seconds East 251.34 feet to the point or place of BEGINNING.

Mar. 24, 2005 2:54PM

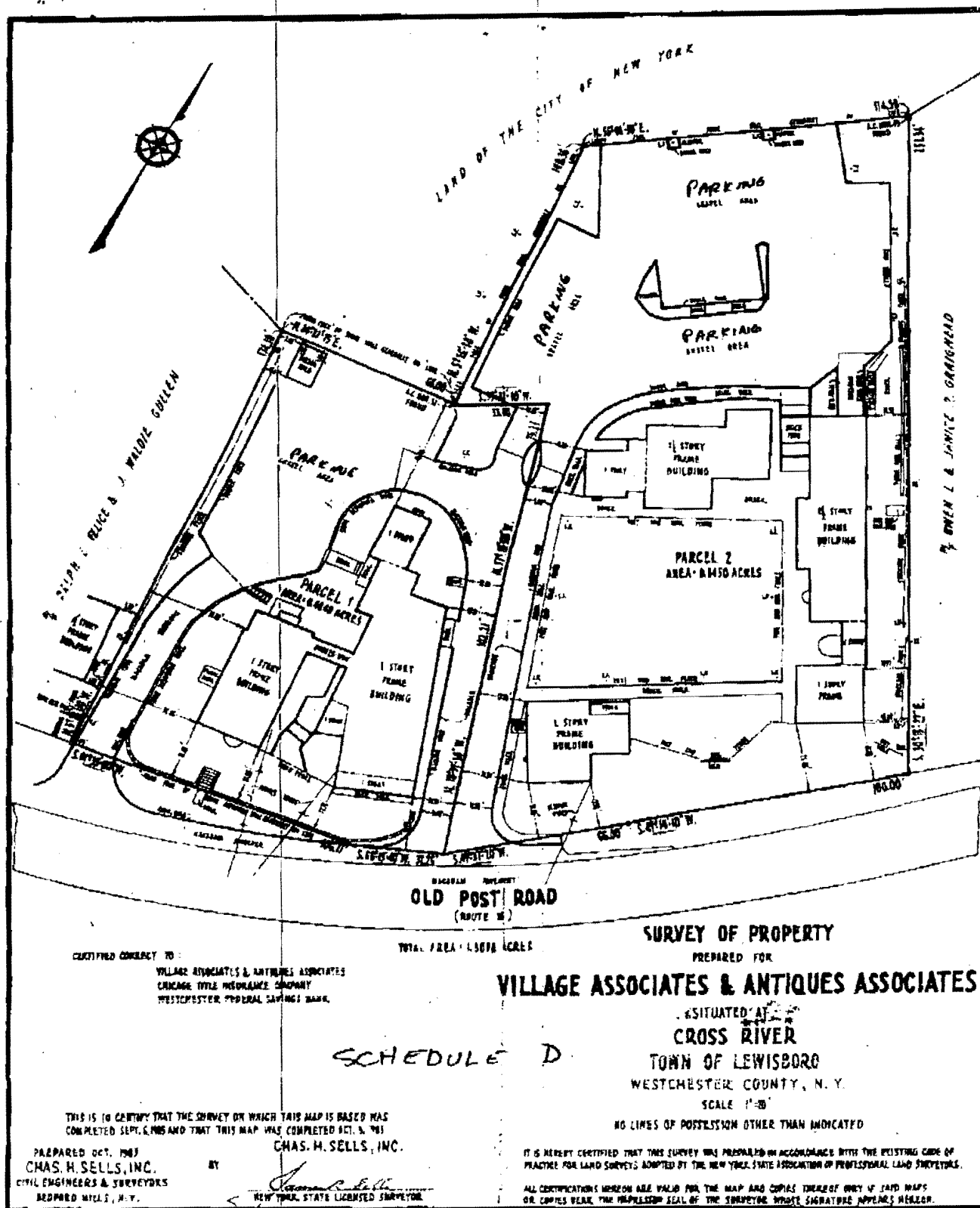
t Street Abstract

No. 9382 P. 9/12

**SCHEDULE C****Access easement 20 feet wide**

All that certain lot, piece or parcel of land with all improvements thereon situate, lying and being in the Town of Lewisboro, County of Westchester and State of New York said easement being more particularly bounded and described as follows.

Beginning at a point on the northerly boundary line of Old Post Road (Route 35) at its intersection with the division line of property now or formerly belonging to Lee Hardesty Inc., on the west and property now or formerly belonging to Lee L. Hardesty on the east. Thence westerly along the northerly side of Old Post Road (Route 35) 80.21 66°13'40" West 10.03 feet to a point thence through land now or formerly Lee Hardesty Inc., the following two (2) courses and distances 1) North 18°59'30" West 103.19 feet and 2) North 17°18'20" West 73.02 feet to the north line of the easement thence easterly along this line North 59°31'10" East 20.54 feet to a point thence southerly through land now or formerly Lee L. Hardesty the following two (2) courses and distances 1) South 17°18'20" East 77.40 feet and 2) South 18°59'30" East 98.15 to a point on the northerly side of Old Post Road (Route 35) thence westerly along this northerly side South 49°37'20" West 10.73 feet to the point or place of beginning.



## AGREEMENT

**THIS AGREEMENT**, made as of the 1<sup>st</sup> day of May, 2005 by and between Village Associates, LLC, a New York limited liability company with a mailing address of 126 Barker Street, Mount Kisco, New York 10549 ("VA"), and Cross River Holding LLC, a New York limited liability company with a mailing address of P.O. Box 391, Cross River, New York 10518 ("CRH").

**WHEREAS**, VA and CRH desire to set forth their agreement regarding the sharing of certain expenses relating to their adjoining properties commonly known as Yellow Monkey Village.

**NOW, THEREFORE**, in consideration of the mutual promises of the parties, the parties agree as follows:

**Snow Plowing, Parking Lots and Driveway Maintenance** – unless an expense is clearly allocable to one or the other of the parties' properties, the parties agree to share 2/3 to VA and 1/3 to CRH the cost of snow plowing and normal parking lot and driveway maintenance. Until otherwise agreed to by the parties, CRH shall be responsible for arranging for and supervising the contractor(s) performing such services. The parties' agreement to share equally the cost of repairing and replacing the Common Driveway and the CRH Driveway (provided that such repairs or replacements are reasonably necessary for the continued use of such driveways, as set forth in the Easement Agreement entered into by the parties dated April 8, 2005 (the "Easement Agreement")), shall remain in full force and effect unaffected by this agreement.

**Lawn and Garden Maintenance** – the expense of normal lawn and garden maintenance shall be shared 2/3 to VA and 1/3 to CRH. Until otherwise agreed to by the parties, CRH shall be responsible for arranging for and supervising the contractor(s) performing such services.

**Garbage Removal** – CRH shall have the right to utilize the dumpsters on VA's property for garbage removal and shall reimburse VA 1/3 of the cost of garbage removal. CRH shall have the right to discontinue such sharing of garbage removal and make its own arrangements for such garbage removal.

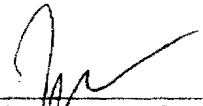
**Water System** – In light of the fact that CRH's water usage is minimal, the parties have agreed that all normal, periodic costs of maintenance of the shared water system shall be borne by VA. Any major repairs or replacements or major upgrades of the well and appurtenant equipment comprising the water system shall be shared equally. For the purposes of this agreement, a "major" repair or replacement shall be deemed to mean a repair or replacement that costs more than \$250. VA shall be responsible for dealing with the Westchester County Health Department (WCHD) including, without limitation, the filing of the periodic reports required by WCHD. In the event that the

normal, periodic costs shall increase over \$250/month, CRH agrees to reimburse VA 1/2 of such costs in excess of \$250.

Except as modified by this agreement, all of the provisions of the Easement Agreement shall remain in full force and effect.

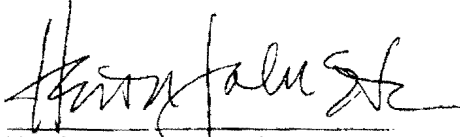
**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date and year first above stated.

**VILLAGE ASSOCIATES, LLC**  
**BY ITS SOLE MEMBER:**  
**NAG ASSOCIATES, LLC**

By:   
John L. Arons, Member

By:   
Daniel Ginnel, Member

**CROSS RIVER HOLDING LLC**

By:   
Heidi Johnston, Member

OFFICE OF BUILDING INSPECTOR  
SOUTH SALEM, N. Y. 10590

TOWN OF LEWISBORO  
WESTCHESTER COUNTY, N.Y.

Telephone  
914-763-3060



Complaint #: 0146-13

## ORDER TO REMEDY VIOLATION

To 02 LIVING REALTY GROUP LLC

Site Address: 792 RT.35

Sheet/Block/Lot: 10533-024-0018

1 ROLAND ROAD  
IRVINGTON NY 10533

PLEASE TAKE NOTICE there exists a violation of the following New York State and/or Town of Lewisboro Codes:

### VIOLATIONS LISTING

<u>Ordinance Code</u>	<u>Violation Date</u>	<u>Corrected Date</u>
185-8A Sign Approval	12/31/2013	
<b>Ordinance Code Full Description:</b>		
Approval of all signs shall be obtained from the Architecture and Community Appearance Review Council (ACARC) prior to the establishment, expansion or change of any sign requiring a sign permit.		

At premises herein described in that:

SIGNS PUT IN PLACE WITHOUT APPROVAL

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy the conditions above mentioned forthwith on or before: 1/31/2014

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law may result in further legal action.

PBARRETT  
Building Inspector



Date: 12/31/2013



**MEMORANDUM**

TO: Chairman Jerome Kerner, AIA and  
Members of the Lewisboro Planning Board

CC: Lisa Pisera  
Lawrence Praga, Esq.

FROM: Jan K. Johannessen, AICP   
Joseph M. Cermele, P.E., CFM   
Town Consulting Professionals

DATE: January 22, 2014

RE: O-2 Living Realty Group, LLC (Yellow Monkey Village)  
792 Route 35  
Sheet 18, Block 10533, Lots 24 & 25

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**Project Description**

The subject property is located on NYS Route 35, consists of  $\pm 0.84$  acres of land and is located within the RB Zoning District/Special Character Overlay District. The subject property, otherwise known as Yellow Monkey Village, is owned by O-2 Living Group, LLC and is developed with three (3) 2-story buildings, a common driveway and a rear gravel parking lot. When originally approved and developed in the 1970's, Yellow Monkey Village was approved for retail use only. Over the years, a variety of uses have been conducted within the various tenant spaces and the applicant is proposing to legalize the existing non-retail related uses.

With the exception of some minor paving and hardscaping improvements to achieve handicap parking accessibility and improve circulation within the parking lot, the proposed action involves no land development or exterior building improvements.

**SEQRA**

The proposed action is a Type II Action and is categorically exempt from the State Environmental Quality Review Act (SEQRA).

### **Required Approvals/Referrals**

1. Site Development Plan Approval is required from the Planning Board; the applicant has requested a Waiver of Site Development Plan Procedures.
2. Any land disturbance or paving within the Town of Lewisboro wetland buffer will require a Wetland Permit from the Planning Board.
3. Any land disturbance or paving within the New York State Department of Environmental Conservation (NYSDEC) Wetland Adjacent Area will require a NYSDEC Article 24 Freshwater Wetland Permit.
4. The application requires a “notification only” referral to the Westchester County Planning Board in accordance with Section 239-m of the General Municipal Law; the Planning Board Secretary will coordinate this referral.

### **Comments**

1. As noted above, Yellow Monkey Village was originally approved for retail use only. While the majority of the tenant spaces are proposed to remain retail, the applicant is proposing to legalize the existing café located on the ground floor of Building #6, the spa located on the ground floor of Building #9, the yoga studio located on the second floor of Buildings #7 and #9, and an office located on the second floor of Building #10.

We note that the parking requirements for the above-mentioned non-retail uses are identical or less restrictive than required for retail (1 space/200 s.f.). Therefore, the proposed change of use will have no impact on the number of parking spaces required/approved. Further, when previously approved, the Planning Board accepted a lesser number of parking spaces than what was required at the time (hence the 48 approved “land-banked” parking stalls mentioned below).

2. We note that there is an existing easement agreement between the subject property and the adjacent property located to the west (owned by Cross River Holding, LLC and comprised of Tax Lots 26 and 27). This easement, among other things, allows for shared access and joint use of the parking areas. We note that the subject property was approved for and currently contains 31 graveled parking spaces and the adjoining property contains a total of 10 spaces (41 total parking spaces).

Chairman Jerome Kerner, AIA

January 22, 2014

Page 3

3. As a result of the required handicap parking stalls, required handicap access aisle and the Town's parking requirements, the number of proposed parking spaces on the subject property will be reduced from 31 to 29 spaces. The applicant should note that the Building Code allows for shared handicap access aisles and the second access aisle shown on the plan could be removed; this would result in one (1) additional standard parking space and a reduction in the area currently designated to be paved.
4. The limits of the existing fence removal for the handicap access should be indicated on the plan. The minimum required clear width for the access should be noted on the plan.
5. We note that the original approval contained a total of 48 "land-banked" parking spaces which are shown to be located over lands owned by the New York City Department of Protection (NYCDEP). Given the ownership, the extent of wetlands in this area, and its proximity to the reservoir, it is unlikely that these spaces will ever be constructed.
6. The applicant should clarify the proposed second floor use of Building #2 (retail or art gallery); the table and floor plans should be adjusted accordingly.
7. Regarding Sheets EX-1 and EX-2, the applicant should label each segment of the building with the corresponding building identification number.
8. Details for the landscape island associated with Parking Spaces #26-29 should be provided on the site plan.
9. The site plan should be revised to illustrate the approximate location of the off-site Town/NYSDEC regulated wetland and corresponding buffer/adjacent areas; the applicant should contact the NYSDEC to determine if a NYSDEC Freshwater Wetland Permit will be required.
10. The limits of disturbance should be illustrated and calculated on the site plan.

In order to expedite the review of subsequent submissions, the applicant should provide annotated responses to each of the comments outlined herein.

Chairman Jerome Kerner, AIA

January 22, 2014

Page 4

**Plans Reviewed, prepared by Andrew Wynnyk Architect and dated December 24, 2013:**

- Site Plan (SP-1)
- Site Plan Overlay (SP-2)
- Existing Conditions (EX-1 and EX-2)

**Other Plans & Documents Reviewed:**

- Topographic Survey, prepared by Link Land Surveyors, P.C. and dated (last revised) December 18, 2013
- Previously approved Site Plan
- Application for Waiver of Site Development Plan Procedures
- Short Environmental Assessment Form, dated December 24, 2013
- Easement Agreement

JKJ/JMC/dc

T:\Lewisboro\Correspondence\LW4082JJ-LWPB-YellowMonkey-Review-Memo-1-22-14.wpdred

**PETRUCCELLI**

**CAL# 8-12PB**

**CAL# 61-09WP**

**PUBLIC HEARING**

11/21/13

Dear Town Planning Board:

At the previous Planning Board Meeting on 11/19/13, Mr. Petrucelli's lawyer noted that many concerned community members were writing to voice their objections to building a house on the lot but their criticism should not be considered legitimate because they do not reside next to the Petrucelli property. I strongly disagree.

While we live down Cove Road on Waterview Court, Lake Waccabuc supplies our drinking water. Our children drink the water and swim in it daily when the weather is warm. We have a fragile ecosystem and the safety of our water system depends on careful stewardship of the wetlands buffer. As citizens of Lewisboro, we rely on our planning board to uphold ordinances that will protect our water and preserve the future of our beautiful lakes for generations to come.

If an exception is made to grant the approval for disturbing the wetlands by filling it in and building a septic system within 50 feet of DEC wetlands, this will set a dangerous precedent. Why will others feel they have to comply with ordinances protecting our wetlands?

Please do the right thing and utilize the laws that are in place to protect our environment. The future of Lewisboro's lakes depends on you.

Thank you,

Amy Handler  
5 Waterview Ct.  
South Salem NY

**From:** [sara.hartley](mailto:sara.hartley@lewisborogov.com)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Wetland stewardship  
**Date:** Monday, January 20, 2014 3:38:30 PM

---

Re: Petruccelli Public Hearing

Dear Planning Board,

There is no plausible reason to violate the environmental protections of the Three Lakes community by setting a dangerous precedent for septic contamination of wetlands.

Only an egregious failure of public responsibility and wanton ignorance of environmental reality could allow trivial mitigation to further the Petruccelli construction. What could possibly make approval of this sound governance ?

Perhaps the developer has no skin in the game, builds on spec - or perhaps the Petruccellis are ignorant of what maintains property values by a lake. Neither positions can be the basis for permitting a destructive building plan - one that has both short and long term consequences for the entire Three Lakes community.

The public good requires the Planning Board uphold common sense standards.

Thanks for your attention. We count on you!

Sara Hartley MD

Sent from my iPad

**From:** [Alayne Vlachos](#)  
**To:** [editor@lewisboroedger.com](mailto:editor@lewisboroedger.com); [planning@lewisborogov.com](mailto:planning@lewisborogov.com); [fablesx2@optonline.net](mailto:fablesx2@optonline.net); [camasonesq@gmail.com](mailto:camasonesq@gmail.com); [aoh347@aol.com](mailto:aoh347@aol.com); [skarob47@optonline.net](mailto:skarob47@optonline.net)  
**Subject:** A Landmark Decision  
**Date:** Saturday, January 18, 2014 3:24:15 PM

---

Is it possible that the Lake Management Plan and the Wetland Protection Laws of the town of Lewisboro are only to be adhered to by

the ordinary citizens of the town? Can an applicant, who is known to the Planning Board and has hired an impressive team of lawyers,

receive special attention and be able to construct a house in the wetlands?

My husband and I were not known to the planning board when we applied for permission to renovate our small Lakefront cottage, a

few years ago. We had lived and paid taxes in town since 1955 and had familiarized ourselves with the laws governing wetland

properties before we purchased our cottage. The planing board and wetlands inspector reviewed every aspect of our blueprints and

we spent several thousand dollars on plantings and drainage, which we could ill afford and finally, our application was approved.

No trees were cut down, no wetland spaces were filled in and our construction site was inspected every week, emphasizing

the importance of wetland protection. In the application to be discussed on January 28th, the proposed house would fill in a

wetland and wetland buffer.

Please do not approve this application which would overturn these essential laws, protecting our lakes.

Alayne Vlachos 23 South Shore Drive, South Salem, NY 10590 (914) 763-3267



*Lake Waccabuc Association*  
*P.O. Box 242*  
*South Salem, NY 10590-0242*

December 10, 2013

Town of Lewisboro Planning Board  
P.O. Box 725  
Cross River, NY 10518

Re: Petrucelli Property, Oscaleta Road, South Salem

Dear Planning Board Members:

The Lake Waccabuc Association (LWA), an association comprised of over 70<sup>+</sup> land owners and residents in close proximity to the Petrucelli property on Oscaleta Road, are writing to express our concern over this application and the detrimental impacts that construction on this site would cause to the wetlands on this property and to the entire Lake Waccabuc environs. Along with the Three Lakes Council (abutters to this parcel) and the Lakeside Association of Waccabuc, the Lake Waccabuc Association has clear standing to comment on this application due our member's close proximity to the property on Cove, Oscaleta, and Lakeview Roads, our mission as stewards of the lake and our management of four rights of way on Lake Waccabuc.

Several of our members were present at the public hearing on November 19<sup>th</sup> and listened intently to the arguments made by Mr. Petrucelli and his team as well as the community groups represented primarily by Janet Andersen, President of the Three Lakes Council. Following the public hearing, we are even more convinced that allowing approval of this application would have significant harmful impacts on the Lake Waccabuc watershed for at least three primary reasons.

Our first objection is based on the fact that this property holds over 8000 square feet of designated town wetlands that will be adversely impacted by construction of a home on this site. In addition, the planned structure would abut filled in Town wetlands and the septic is 50 feet from separate DEC wetlands. Allowing this application to proceed would set a strong precedent for allowing construction that has significant impact to a Town wetland. In our view, approval would effectively scuttle our local laws aimed at protecting wetlands and the environment. If this application is allowed to proceed, how could the Planning Board in good conscience ever deny another application with these kinds of wetland impacts?

Second, the LWA and our members are concerned about the impacts of a septic system on the wetlands and Lake Waccabuc. We all know that septic systems are a leading cause of phosphorus contamination in our lakes. Allowing a septic system within the wetland buffer and within 400 feet of Lake Waccabuc is a serious concern to our members. Phosphorus can cause more algae blooms, which are harmful the lake, the wildlife and recreational users of the three lakes. Just this past summer, a dangerous algae bloom effectively shut the lake down for recreational use for several days in the prime time of summer. It should also be noted that many of the at least 17 families who get their household water from Lake Waccabuc are members of the LWA.

Third, we believe allowing this application to proceed would have significant impact not only on the wetlands on this property, but the adjoining property owned by the Three Lakes Council (TLC). It should be noted that the application does not contain plans to protect the TLC from adverse impact for which construction would surely cause. As anyone who lives in proximity to the lake can tell you, these two properties are wet most of the year. We do not accept Mr. Petrucelli's arguments about the berm constructed decades ago causing this property to become wetlands. It is patently clear just by traversing the properties owned by Mr. Petrucelli and the TLC that reside in a natural low point in area and that water from the surrounding properties has nowhere else to go. These properties are clearly watersheds and are, therefore, a stronghold in the protection of the three lakes in the future.

As land owners, we acknowledge that Mr. Petrucelli has purchased the property and paid the taxes on it for years. However, the public record shows that Mr. Petrucelli purchased the property for approximately \$4,000 in the 1980's, a tiny fraction of the value of the properties owned by others that could be significantly harmed by this construction. Given the controversial nature of this property and the clear detrimental impacts, we implore Mr. Petrucelli to withdraw his application and work with the community on a reasonable sale or donation of the property that protects this precious land and would ensure his legacy as a protector of our lakes.

Sincerely,

John Lemke  
Vice President  
Lake Waccabuc Association

*Michael Fuller Sirignano*

*Attorney and Counselor at Law*

*Old Post Road Professional Building  
892 Route 35, P.O. Box 784  
Cross River, New York 10518*

*Tel: (914) 763-5500  
Fax: (914) 763-9589  
michael@sirignano.us*

January 22, 2014

Jerome Kerner  
Planning Board Chairman  
Town of Lewisboro  
@Orchard Square  
Suite L (Lower Level)  
Cross River, NY 10518

Re: Rudolph C. Petrucci  
Cal. #8-12PB and Cal. #61-09WP

Dear Mr. Kerner:

This letter is submitted in further support of Mr. Petrucci's above referenced applications. Kindly make this part of the record when the Planning Board reopens the public hearing on this application on January 28, 2014.

To briefly summarize the proof submitted at the November 19, 2013 public hearing, this parcel became a separate tax lot since 1972, more than 41 years ago. Mr. Rudolph Petrucci purchased it on April 1, 1982, over 30 years ago. Two earth berms installed between 1960 and 1976 created a man-made retention area into which ground water is discharged from several sump pumps on the neighboring Rosenbaum property. Such run-off becomes impounded in this small (2,200 s.f.) triangular pocket of locally regulated wetlands which are of limited value and functionality. Mr. Petrucci proposes mitigation for the loss of this marginal wetland pocket at approximately a 1:1 ratio.

As a result of the mitigation measures proposed by the Applicant, the proposed action will not negatively affect any water body designated as protected under Article 15, 24 or 25 of the Environmental Conservation Law. The proposed activities approved by the NYSDEC consisting of the construction of a new single-family residence with septic system in the adjacent area of NYS freshwater wetland L-13, Class 2, involving disturbance of approximately 0.22 acre of DEC regulated wetlands for the placement of fill and construction of a raised-bed septic. The condition of said DEC freshwater wetlands permit, i.e. that Mr. Petrucci record a deed covenant confirming that a portion of his building lot is subject to DEC regulations and permitting requirements, has been satisfied.

The proposed action will not result in the direct net loss or degradation of any state regulated wetlands on the site.

The proposed action will not affect surface or ground water quality or quantity.

The proposed action will not affect any threatened or endangered species.

The Applicant has considered alternatives for the size and configuration of the proposed house, garage and driveway and has selected the alternative that least impacts locally regulated wetlands and the 150 foot wetland buffer. The house has been down sized from 4 to 3 bedrooms and moved completely out of the wetlands, the garage and driveway were relocated to the south side of the house, permeable pavers will be used for the driveway, the septic system has been reduced by one-third and the fill around the house has been lowered to a maximum of 3 feet.

As demonstrated by the applicant's wetlands scientist, Steve Marino of Tim Miller Associates, Inc., the locally regulated wetlands provide only minimal function as a source of stream flow and ground water discharge. Said small wetland pocket is completely isolated from the DEC wetland to the west due to the existing berms and the disturbed vegetation community. Moreover, this small wetland pocket rates low (according to said wetlands scientist) for vegetative and wildlife diversity as the majority of the vegetation in and around this isolated wetland pocket are non-native invasives, which provide poor vegetative cover and are of low interest to native wildlife species. Lastly, this poorly drained man-made wetland pocket functions only at a moderate level for storm and floodwater storage and modification of water quality. Storm water storage functions are limited by the small size and shallow depth of this depressional area. Historically ground water from multiple sump pumps on the neighboring residence has been discharged into this pocket.

The applicant has proposed mitigation for those impacts due to construction that cannot be further minimized or avoided. These include erosion and sediment controls, establishment of a deed restriction limiting the bedroom count to three, installation of state-of-the-art septic system, reduction in net impervious area and re-naturalization of areas of the site.

The proposed action will not cause a substantial adverse change in the existing air quality, traffic or noise levels or a substantial increase in solid waste production.

The proposed action will not cause the removal or destruction of large quantities of native non-invasive vegetation or fauna, the substantial interference with the movement of any resident or migratory fish and wildlife species, adverse impacts on a significant habitat area or other significant adverse impacts to natural resources.

There is no material conflict with the Town's current plans or goals, as the proposed action is fully zoning compliant and does not require a variance of applicable zoning regulations.

There are no identified important historical, archeological, architectural or aesthetic resources which will be impaired. The proposed action consists of a use consistent with existing community and residential character of the surrounding neighborhood.

For all of the reasons stated above, the Applicant has demonstrated that the proposed action will not have significant adverse impacts on the environment or on the public health and welfare, as mandated under Section 271-8.B of the Town of Lewisboro Wetlands and Watercourse Law, including impacts on such wetland functions as water quality preservation, flood control and wildlife habitat.

The applicant has presented the Planning Board with documented scientific evidence and testimony concerning man-made changes to the site, the marginal wetland, watercourse and buffer area functions and the reduced role of this isolated wetland pocket, watercourse and buffer area in the hydrologic and ecological system. Such proof demonstrates that the impact of the proposed activity upon public health and safety, special concern, rare, threatened and endangered species, water quality, and additional wetland, watercourse and buffer area functions has been avoided or minimized to the maximum extent practicable.

The following factors were carefully studied and addressed by the Applicant:

- (1) The overall impact of the proposed activity and existing and reasonably anticipated similar activities, upon neighboring land uses and wetland, watercourse and/or buffer area functions, including but not limited to:
  - (a) Direct impacts on the locally regulated wetland and buffer area, including modification of natural topographic contours, have been minimized to the maximum extent practicable.
  - (b) Disturbance or destruction of native flora and fauna has been minimized to the maximum extent practicable and a natural buffer area will be maintained between the proposed residential improvements and the state wetlands.
  - (c) Influx of sediments or other materials causing increased water turbidity and/or substrate aggradations have been minimized by the implementation of an erosion and sediment control plan.
  - (d) Net reductions in wetland or watercourse water supply have been almost completely avoided.

- (e) No wetland or watercourse water circulation or flow as now exists between this locally regulated wetland pocket and the state regulated larger wetlands will be altered.
  - (f) Changes in the amount or type of wetland or watercourse nutrients have been avoided by the establishment of a natural buffer area.
  - (g) Influx or discharge of toxic chemicals and/or heavy metals has been avoided by the establishment of a natural buffer area.
  - (h) Destruction, reduction and diminution of natural and native aesthetic values have been avoided by the establishment of a natural buffer area.
  - (i) Reduction in public recreational or educational use and access has been avoided since the site is private property.
  - (j) Impact to, and alteration or disturbance of buffer areas have been reduced to the maximum extent practicable, but still allow the owner to utilize the site he has owned for more than 31 years for the single-family residential use permitted by zoning.
- (2) Any existing wetland, watercourse and/or buffer area impacts have been minimized to the greatest extent practicable and the cumulative effect of reasonably anticipated future activities in the wetland, watercourse and/or buffer area have been avoided by the implementation of a natural buffer area.
  - (3) The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage, storm barriers and water quality have been considered and avoided by the implementation of a storm water management program designed and certified by a licensed NYS Professional Engineer.
  - (4) The potential effect of flooding, erosion, hurricane winds, soil limitations and other hazards on the proposed activity, and possible losses to the applicant and subsequent purchasers of the land have been avoided by locating all improvements outside of flood hazard zones.

- (5) The soils in the area proposed waste disposal for the proposed use have been determined to be adequate by the Westchester County Department of health.
- (6) The application is consistent with Federal, State, County, Regional and local comprehensive land use plans and regulations and all relevant permits have been or will be obtained.
- (7) The availability of preferable or environmentally compatible alternative locations on the subject parcel or, in the case of an activity which cannot be undertaken on the property without disturbance to wetlands, watercourses and/or buffer areas, the availability of other reasonable or practicable locations for the activity have been considered and the alternative that minimizes impacts to the regulated wetland resource has been selected.

The impacts to the locally regulated wetlands and buffer area are necessary and unavoidable and have been minimized to the maximum extent practicable. We note the following factors and/or conditions which are consistent with past wetlands permits issued by the Board:

- (a) The proposed activity is compatible with the public health and welfare.
- (b) There is no reasonably feasible on-site alternative to the proposed activity including reduction in the house size or bedroom count, change in use, revision in the location of house, driveway and other site construction and land altering activities, and/or related site planning considerations, that could otherwise reasonably accomplish the Applicant's objectives. The Applicant has agreed to implement all feasible alternatives which have minimized the impacts of this application.
- (c) There is no reasonably feasible alternative to the proposed activity on another site location. The proposed single-family residence and improvements are located the maximum feasible distance from the DEC regulated resource but still maintain statutory setbacks to the proposed work.
- (d) To insure compliance with the approved sub-surface disposal system plan, prior to the issuance of the Certificate of Occupancy, an as-built version of the sub-surface disposal system plan and an as-built topographic survey shall be provided to the Wetland Inspector.

- (e) All proposed erosion and sediment controls are in accordance with the NYS Guidelines for Urban Erosion and Sediment Control and The Westchester County Best Management Practices Manual for Erosion and Sediment Control.
- (f) The site shall be monitored monthly and after each major storm during construction for compliance with the approved Erosion and Sediment Control Plan by a qualified environmental consultant. The name of the environmental consultant shall be provided the Wetland Inspector prior to construction. Written reports outlining the site, status, identified problems and suggested remediation shall be provided to the Planning Board and Building Department. No Certificate of Occupancy shall be issued unless proof of compliance with this condition is provided.
- (g) Only low flow plumbing fixtures shall be utilized in the new residence.
- (h) Annual septic inspection and maintenance will be performed. Proof of inspection and/or service shall be provided to the Planning Board Administrator.
- (i) After construction, an "as-built" version of the construction plans shall be provided to the Planning Board documenting the location of the new residence, driveway, drainage improvements, septic system and mitigation plantings.
- (j) As provided under Section 217-9G of the Town Wetland and Watercourse Law, the wetlands activity permit shall be subject to revocation should the applicant or permittee not comply with the terms and conditions of said permit.
- (k) There shall be no clearing, grading or removal of vegetation beyond the clearing limits shown on the plan.
- (l) A portable sanitary facility shall be maintained on-site for the duration of construction.



*Michael Fuller Sirignano*  
*Attorney and Counselor at Law*  
- 7 -

- (m) Prior to the issuance of the Wetland Activity Permit the owner and contractor shall provide a written statement acknowledging that they have read and will abide by all conditions of the Permit.
- (n) Construction on the site shall not commence until a valid Building Permit has been issued.
- (o) Wetland seed mixes, trees and shrubs will be installed within the restoration/mitigation areas.

We look forward to concluding this public hearing process on the 28<sup>th</sup>.

Very truly yours,

Michael Fuller Sirignano

MFS/cp

# **MATTER OF EASTBROOK CONSTR. CO., INC. v. ARMSTRONG**

205 A.D.2d 971 (1994)

613 N.Y.S.2d 776

**In the Matter of Eastbrook Construction Company, Inc., et al., Appellants,**

**v.**

**Elizabeth Armstrong et al., Individually and as Members of The Town of Lewisboro,  
Respondents**

**Appellate Division of the Supreme Court of the State of New York, Third Department.**

**June 23, 1994**

**Mikoll, J. P., Crew III, Yesawich Jr. and Peters, JJ., concur.**

White, J.

Petitioners (hereinafter collectively referred to as Eastbrook) commenced this CPLR article 78 proceeding challenging the denial by the Planning Board of the Town of Lewisboro (hereinafter Board) of its application for a wetlands activity permit authorizing the construction of a single-family dwelling on a 1.189-acre parcel of property in the Town of Lewisboro, Westchester County, which it purchased on December 20, 1985. Prior to Eastbrook's purchase, the County Department of Health had granted approval for the construction of a septic system and a private water supply on the property and the Town's Building Inspector had issued a building permit. Construction commenced immediately after the purchase and, by January 3, 1986, the foundation had been completed. On that date, the Area Supervisor of the Westchester Bureau of Environmental Quality Control suspended the permit issued by the Department of Health on the ground the proposed septic tile field was located within the required 100-foot barrier adjoining wetlands. On January 6, 1986, the Town's Building Department issued a stop work order and advised Eastbrook that it would not be rescinded until Eastbrook had obtained a wetlands activity permit in accordance with the provisions of the Town's Freshwater Wetlands Protection Law.<sup>1</sup> Eastbrook's initial application for such permit was denied by the Board on September 1, 1987. Eastbrook resubmitted its application on September 23, 1988 after attempting to satisfy the concerns expressed in the Board's September 1987 decision. Following a series of public hearings, the Board, by resolution dated March 7, 1989, again denied the application. Eastbrook then initiated a CPLR article 78 proceeding to review this determination. Supreme Court annulled the Board's denial of Eastbrook's application and remitted the matter to the Board for the purpose of distinguishing Eastbrook's application from similar cases where wetlands activity permits had been granted.<sup>2</sup>

Upon remittal, the Board issued a supplemental and an amended supplemental resolution denying Eastbrook's application for the reasons set forth in its March 1989 resolution and distinguishing prior successful wetlands activity permits from Eastbrook's application. This CPLR article 78 proceeding followed which Supreme Court dismissed, giving rise to this appeal.

Relying on *Matter of E.F.S. Ventures Corp. v Foster* (71 N.Y.2d 359), Eastbrook's primary contention is that, because it had engaged in construction activity following the issuance of the building permit,

the Board acted arbitrarily and capriciously in applying the Town's Freshwater Wetlands Protection Law to its property. We cannot subscribe to this argument because there is a critical distinction between this case and *E.F.S. Ventures*. The petitioner in *E.F.S. Ventures* had obtained vested rights that were beyond legal challenge (*supra*, at 364-365; *see, Matter of Ellington Constr. Corp. v Zoning Bd. of Appeals*, 77 N.Y.2d 114, 122), whereas here the issuance of the building permit in contravention of the Town's Freshwater Wetlands Protection Law did not confer vested rights upon Eastbrook (*see, Matter of Midas Muffler v City of Albany*, 186 A.D.2d 856).

Therefore, since the Board was acting in the discharge of its duties under the Freshwater Wetlands Protection Law and as it is not precluded from correcting errors arising from the mistaken or erroneous issuance of a building permit, we find the application of the Freshwater Wetlands Protection Law to Eastbrook's property to have been appropriate (*see, Matter of Parkview Assocs. v City of New York*, 71 N.Y.2d 274, 282, *appeal dismissed, cert denied* 488 U.S. 801).

We further find Eastbrook's contention that the Board's action constitutes an unconstitutional taking also lacking in merit for the reason that Eastbrook did not come forward with "dollars and cents" proof showing beyond a reasonable doubt that under no use permitted by the Freshwater Wetlands Protection Law would the property be capable of producing a reasonable return (*see, Matter of Kransteuber v Scheyer*, 80 N.Y.2d 783, 786; *de St. Aubin v Flacke*, 68 N.Y.2d 66, 77).

Lastly, inasmuch as the record supports the Board's findings that the wetlands areas are much more extensive than Eastbrook indicated, that all of the proposed improvements on the site would be located on land that is wetlands, and that the proposed construction would lower the water table which would possibly result in the elimination of wetlands, we find that the Board's denial of Eastbrook's application has a rational basis and is supported by substantial evidence (*see, Matter of Drexler v Town of New Castle*, 62 N.Y.2d 413, 420).

For these reasons, we affirm.

Ordered that the judgment is affirmed, without costs.

## FOOTNOTES

1. Under this law and its implementing regulation, the Town exercises regulatory authority with regard to, *inter alia*, construction activities in freshwater wetlands and all areas adjacent to any freshwater wetlands up to 100 feet from the boundary of such wetlands (Local Law, 1985, No. 2 of Town of Lewisboro § 2; Regulations for Administering the Town of Lewisboro Freshwater Wetlands Protection Law, Part A [1]).

2. Eastbrook's appeal from Supreme Court's judgment was dismissed by the Second Department on the ground that Eastbrook was not an aggrieved party within the meaning of CPLR 5511.

SUPPLEMENTAL RESOLUTION  
APPLICATION FOR WETLAND ACTIVITY PERMIT  
EASTBROOK CONSTRUCTION COMPANY, INC.  
(PART I)

By resolution dated March 7, 1989 (Cal. #6-87 W.P. attached hereto), this Board denied the application of Eastbrook Construction Company, Inc. for a wetland permit with respect to property located on the west side of Oscaleta Road. This Board's decision of March 7, 1989 is hereby incorporated, as Part II, into the instant supplemental resolution.

The applicant thereafter commenced a proceeding in the Supreme Court of the State of New York, pursuant to Article 78 of the Civil Practice Law and Rules, contending that this Board's March 7, 1989 resolution, denying the applicant's wetland permit, was arbitrary and capricious. By Decision, Order & Judgment, filed and entered on July 27, 1990, the Honorable Kenneth H. Lange, Acting Justice, determined, in essence, that while this Board's prior decision was not arbitrary and capricious with respect to its denial of the applicant's wetland permit, the Board failed "to indicate its reasons for reaching a different result on (wetland permit) cases factually similar to the case at the bar." The Court stated that the Planning Board failed to set forth the reasons why the applicant's wetland permit application was distinguishable from other cases, cited by the applicant, wherein wetland permits were granted.

The Court, therefore, remanded this matter to the Planning Board for further consideration of the manners in which the applicant's application was distinguishable from the other cases, cited by the applicant, wherein wetland permits were granted. As stated by the Court, it is not arbitrary and capricious for a Board to reject an application even though it had previously granted applications in similar situations, provided that the Board explains its reasons for reaching a different result.

The Board hereby reiterates the denial of the applicant's wetland permit application for the reasons set forth in this Board's prior decision of March 7, 1989 and hereby referenced as Part II of this resolution. The Board submits the following with respect to its rationale in granting wetland permits in the cases cited by the applicant and the distinguishing features of those cases. We also set forth a number of cases, similar to that of the applicant, wherein this Board denied wetland permit applications.

Applications Granted Conditional Approval

1. Calendar No. 12-86 (Hartico, Inc.) - The Board determined that in this application wetlands were properly delineated according to Town of Lewisboro Wetlands Regulations. The septic area was 100 feet from the wetland and not in a regulated area. In 1985 when this permit was issued, the regulated wetland setback was 50 feet. (The Town Wetland Regulations were amended in 1987 to include a 100 feet regulated setback, and this regulation was in effect when Eastbrook applied for their permit.) The driveway location was no closer than 50 feet from wetland and house was at least ten feet above the elevation at the edge of the wetland.
2. Calendar No. 14-86 (O'Brien) - A wetland permit was granted to replace an existing leaking septic tank that was serving an existing home, with a new watertight tank. No new construction or alteration of grades was authorized.
3. Calendar No. 19-86 (Brockelman) - The permit issued was for driveway construction only. The Board determined that the functions and values of this wetland were not as significant as the subject wetland. The alternatives that were considered by the Board would have required an easement over an adjacent lot, cutting into a steep hillside and removal of trees on sloped land. The plan approved by the Planning Board had the least long term adverse impact.
4. Calendar No. 20-86 (Muoio) - An existing house and septic were abandoned within 100 foot of wetlands and a new house location was proposed at the rear of the site, approximately 150 feet away from the wetland, making the site more conforming with the Wetland Regulations then in effect. The Board granted a permit for a driveway to cross a dry stream course. The new house and septic were not within the regulated wetland or setback.
5. Calendar No. 23-86 (Brunale) - In this case, no construction was proposed in a wetland. In fact, the DEC issued a permit which indicated that no activity would be permitted within a wetland area. The Board issued a permit on the basis of a plan which showed no wetland activity with the residence at least 50 feet from the wetland and the septic area over 100 feet from the wetland (The Town wetland setback was 50 feet at this time).

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Eastbrook Construction  
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6. Calendar No. 21-86 (Pagano) - The wetlands on this property were determined by the Board to be less significant and the risk of adverse impact minimal. Moreover, the septic field would be on a non-wet area at a higher elevation than the wetland. Moreover, upon review it appears that the plan submitted did not accurately reflect field conditions. It is unlikely that a current application for this would be approved. The Board in the instant application refuses to duplicate what may have been a previous error.
7. Calendar No. 2-87 (Vetere) - The Town Engineer reported no wetlands in the area of the proposed activity. There was a proposed drainage swale at the east end of the lot and the Board's concern was with maintaining drainage. Again, there was no construction in the wetlands.
8. Calendar No. 4-88 (Goodnough) - In this application, the Board issued a permit for an artists studio. The proposed structure was to be located at least 75 feet from the wetland and with no plumbing or septic system. No grading or encroachment was proposed, and an existing stone wall acted as a buffer between the studio and pond.
9. Calendar no. 8-88 (Brown) - The submitted plan identified a wetland area smaller than the instant wetland. This was confirmed by an on-site inspection of the Board and its professional consultants. Moreover, no construction was to take place within the wetland area, the house was to be 50 feet from the edge of the wetland and the septic field 180 feet from the edge of the wetland (The Town wetland setback was 50 feet at this time). The wetland itself was determined to be not very significant because of its small size.
10. Calendar No. 10-88 (R.S. Builders) - The 7 lot subdivision proposed for this site has never been approved and a new application for four lots has not been approved to date (September 1990). The proposed activity was the installation of three curtain drains into a regulated area for a distance not closer than 50 feet from the wetland edge on two proposed lots. The work was of limited scope, did not involve any work in the wetland area and had no long-term impact on the wetland area.
11. Calendar No. 12-88 (Rudolph) - In this application for a single family residence, the foundation for the proposed house site was to be more than 100 feet from the wetland. The permit issued was to allow driveway grading within 60 to 75 feet of the edge of the pond.

Resolution - Part I  
Eastbrook Construction  
Page 4

12. Calendar No. 17-88 (Cercena) - There was to be no construction in the wetland. In this case, the wetland boundary was clearly defined in the field as a result of site inspections by professional consultants and by the Board. In fact, the location of the house was revised after initial Board review. Moreover, a study submitted by the applicant's consultant indicated no impact on adjacent wetlands.

Similar Applications Where Permits Were Denied

13. Calendar No 7-87 W.P. (Testa) - This application for a single family residence and septic system was denied, in part, because the submitted plan did not accurately show designated wetlands as defined by the Town of Lewisboro Freshwater Wetlands Protection Law and the proposed expansion area for the sub-surface sewage disposal area was shown in the wetlands.
14. Calendar No. 22-87 W.P. (Card) - This application to build a single family residence and septic within 100 feet of an existing stream (wetland) was denied, even though the Applicant suggested the relocation of the stream. Re-application was not pursued.
15. Calendar No. 7-89 W.P. (Biscow) - The applicant proposed to construct a one family residence and individual septic system in an area of fill in a wetland and adjacent regulated setback. The Board denied the application in part because the Applicant failed to demonstrate that the proposed activity would not have significant adverse impacts on public health and welfare.

Similar Applications Withdrawn Or Otherwise Not Pursued

16. Calendar No.26-88 (Merritt Development) - An application was filed to fill an existing wetland, grade and install paving within the 100 feet setback, and dredge a pond. The application was subsequently withdrawn after meeting with negative comment during preliminary discussions with the Planning Board.
17. Calendar No. 25-88 (Kjell Sand) - This application was to build a single family residence within and adjacent to Town and NY State wetlands. Application was not pursued after preliminary discussions.

18. Calendar No. 20-88 W.P.(Robert Lee) - An application was filed with the proposal to fill wetlands. The applicant was advised that this type of activity ordinarily would not receive approval and he did not further pursue the application.
19. Calendar No. 27-86 (Esposito) - An application was filed to modify a site for the installation of a septic field. Following a request by the Planning Board for mitigation measures to minimize the impact on wetlands, the application was withdrawn.
20. Calendar No. 1-88 (Lake Katonah Club) - No permit was ever granted for this application. The Applicant was advised to submit more data to allow a thorough evaluation of their proposal.

RESOLVED, that the application for a wetland activity permit submitted by Eastbrook Construction Company is denied.

PLANNING BOARD  
Town of Lewisboro

By Peter W. Beardley  
Chairman

Dated: October 2, 1990  
South Salem, New York

STATE OF NEW YORK           )  
COUNTY OF WESTCHESTER   )  
TOWN OF LEWISBORO        )

I, MARILYN J. MADSEN, Secretary of the Planning Board of the Town of Lewisboro, County of Westchester, State of New York, do hereby certify that I have compared the preceding copy of a resolution adopted by the Planning Board of the Town of Lewisboro at a meeting held on the 2<sup>nd</sup> day of October 1990, and that the same is a true and correct copy of said original and of the whole thereof.

Marilyn J. Madsen  
Planning Board Secretary  
Town of Lewisboro

Dated at South Salem, New York  
this 3<sup>rd</sup> day of October, 1990.



**From:** [RossWeale](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Oscaleta Rd. Project  
**Date:** Friday, January 24, 2014 10:05:38 PM

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Gentlemen:

Please refrain from approving this wetlands project on the perimeter of Lake Waccbuc. Over the past several the Board has granted approval for structures that simply do not fit within the neighborhood

**From:** [RossWeale](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Fwd: Oscaleta Rd. Project  
**Date:** Friday, January 24, 2014 10:16:15 PM

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A second effort.....the Oscaleta house simply does not fit even in the established wetlands.

I simply ask that you walk that property again and understand the issues. Given the rain and now recent snowfalls, the property is WET !!!

Please pay attention to all the issues that have been raised by the Three Lakes Council.

Thanks for your attention to my words.

Ross/Carol Weale  
56 Cove rd.  
SS

Begin forwarded message:

**From:** RossWeale <[rmweale@gmail.com](mailto:rmweale@gmail.com)>  
**Date:** January 24, 2014 10:05:36 PM EST  
**To:** "[planning@lewisborogov.com](mailto:planning@lewisborogov.com)" <[planning@lewisborogov.com](mailto:planning@lewisborogov.com)>  
**Subject:** Oscaleta Rd. Project

Gentlemen:

Please refrain from approving this wetlands project on the perimeter of Lake Waccbuc. Over the past several the Board has granted approval for structures that simply do not fit within the neighborhood.

**From:** [L](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Petruccelli Permits for House, Driveway and Septic System  
**Date:** Saturday, January 25, 2014 5:06:36 PM

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To whom it may concern,

I am writing to ask you to please deny Mr. Petruccelli the permits needed for the house, driveway and septic system. The house is located in an area that will impact the water quality of the lake. I grew up at 22 Cove Road on Lake Waccabuc.

I have seen major changes in the lakes especially Lake Waccabuc. I do NOT have a well. My water is pumped in from the lake. It is filtrated but I cannot drink it anymore. As a child, teenager and young adult I never worried about drinking the water. Now I have to have Poland Spring brought in for all drinking, cooking purposes. Over the years so many houses that were used in the summer only are being used year round. They are being built bigger, taller and more bathrooms. Growing up we did not have dishwashers . My family did not even have a washing machine. We went to the laundromat. It is changing the lake. Seeing soap suds in the water in the still water of Lake Waccabuc last summer was frightening to me. The lake staying green for months on end. No one even wanted to go swimming last year because of the allergic reactions to the green color.

Recently I put in a brand new septic system using Peat Bio Filter Modules hoping that I will not be the one to further destroy the lake. This is NOT the time to allow any building in a wetland area. The lake cannot handle it. We need to start identifying how to preserve our lakes for the future and the best way is to not allow ANY building in wetland areas. We should be using our time and effort to identify the properties around the lake area that are not taking care of their septic systems rather than having to stop building in a wetland area. I remember years ago when this came up and it was stopped. Please do NOT approve the permits. Don't add to the problems the lakes are dealing with.

As a child I grew up with the stories of John Aiken and Sam Dickens about when they first saw the lakes...No houses..no people...just beautiful nature. We can never go back but it is time to stop the new building especially in WETLANDS...

Thank you very much,

Linda Van Tassell Clark

**From:** [Devlake2@aol.com](mailto:Devlake2@aol.com)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** proposed building on Oscaleta Rd  
**Date:** Sunday, January 26, 2014 3:08:46 PM

---

Please prevent the proposed building of the house on Oscaleta Rd. that compromises the wetland buffer & therefore undermines Town wetland protection. Respectfully, Devera Black, LCSW, 71 Twin Lakes Rd. So. Salem

**From:** [David Berger](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Oscalata Rd development /Petrucelli  
**Date:** Sunday, January 26, 2014 9:54:24 PM

---

Dear Sir/Madam,

Unfortunately I will not be able to attend the planning meeting on January 28 th when this development proposal is brought to discussion. However, I hope that this email will add weight and deter the planning board from approving the plans.

Twin Lakes Council is blessed with some very knowledgeable and experienced volunteers who have an intimate understanding of the lakes, surrounding land, hydrology and environment. They are studious, fair and balanced individuals who have no other motivation but to protect and preserve the Lakes, its delicate ecosystem and therefore the quality of life for the majority of residents. The three lakes natural beauty --and interdependency-- is the very reason why residents chose to live here (and pay our taxes), when the neighboring towns offer significantly more developed infrastructure and resources.

For the record, I am not anti-development as such. I believe that residents have a right to improve, renovate, enlarge their houses and generally improve the quality of life. However, all this has to be taken in the context of scale and the impact in this unique wetlands environment. Again, this is why we live here.

Of all the development sites in this area, the proposed development on Oscalata Rd is particularly unsuitable. Plans to build on this site and carry out high volume land fills go back to 1987 have been successively rejected. Since then, our understanding the lakes biology and equilibrium has only improved. The new plans (and having studied them very carefully) are merely a reworking of the old and offer nothing substantially new or different in terms of lessening the negative impact at the local site and lake ecosystem.

This wetlands parcel is patently not suited for new development, with the septic and other storage units being brought into play, let alone the hundreds of cubic yards of additional landfill needed. The land quite clearly consists of marshy swamp and presents the most important drainage/filtering conduit between the two lakes, at its narrowest point. The environmental damage to both lakes could be immense, in a spill or leakage situation, let alone the sheer volume of displacement to the surrounding area.

The fact that planning applications have been made in the past and now a new iteration of those plans is being brought to the committee, makes the application no more valid that it was originally. By all means, residents should be free to apply and build in the appropriate areas which do not have a direct impact on the lake environment. I fear that should planning permission be granted in this specific parcel, that the environmental impact could be very severe and, potentially, cause significant distress to local residents who live, swim and fish on the lake. This, in turn, can also have a direct knock on effect in terms of quality of life, health, potential legal liability, let alone our town's reputation for environmental sensitivity.

Therefore, please accept my emailed comments as adding further argument in rejecting this planning application, which I regard to be irresponsible and unsuitable on many levels.

Sincerely yours,

David Berger

28 Twin Lakes Road.

**From:** [Joe Tansey](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Petrucelli  
**Date:** Tuesday, January 28, 2014 2:52:44 PM

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## Planning Board

As we all know wetlands, are environmentally sensitive areas especially swamps, and we have laws and guide lines that are used to protect them.

This particular wetlands (swamp) is very familiar to me as I have lived next to it of over 40 years and have spend a lot of time in and around it observing and studying nature. This swamp is home to nesting North American wood ducks, and many other birds, various species of frogs, water snakes, turtles, aquatic insects a beaver family, as well a muskrats and mink. Last year while stocking one of the lakes we saw a baby mink which I have no doubt was born in this swamp. It also harbors a wide variety of plants and shrubs like the American Azalea, along with carnivorous plants such as the sun dew and the pitcher plant which is currently on the NYS "watch list".

Having observed this swamp over a long period of time it is my opinion that it is currently being stressed which I'm about to explain. 20yr ago when I would load myself up with citronella to ward off the bugs, paddle my canoe around and through the swamp on warm spring and summer evening. The chorus of bull frogs/green frogs/ peepers and other frogs would fill the night air with sound. Then about 10 years ago I noticed that it did not appear to be as many frogs. I started counting and last year I counted only 6 different bull frogs. The painted turtles that inhabit the swamps edge have been disappearing as well as have the water snakes, and the swallows and insects. The last couple of years I have not needed but repellent as a matter of fact I do not currently own any. So as you can see the eco system in the swamp is in decline and I'm not sure why.

That being said, is why I believe that we should refrain from any disturbance in the wetlands or the buffer that surrounds this swamp. I also believe the best protection is one of prevention rather than cure, once a wetland is disturbed it is next top impossible to repair the damage.

So if we error lets do it on the side of prevention.

Thank you

Joe Tansey

61 Knapp Road  
S. Salem NY



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January 27, 2014

Mr. Rudolph Petruccelli  
392 Columbus Avenue  
Valhalla, NY 10595

Dear Mr. Petruccelli:

At your request, I have inspected your vacant land located on Oscaleta Road, South Salem (Block 11157, Lot 46, Town of Lewisboro) for the purpose of determining its market value.

I have conducted a comparative market analysis which includes lots presently for sale and lots that have sold. In Lewisboro, active and sold parcels of land have been few and far between. Therefore, I included vacant land located in the towns of Somers and Bedford. I also used comparable sales within the last 3 years. The properties selected (see attached) for the report are located in neighborhoods as similar to the subject property as possible.

Under present market conditions, I estimate the value of your land as a buildable lot with a 3 bedroom septic system to be \$100,000. As an unbuildable lot, it has little or no market value.

I have priced this lot by taking into consideration its location, size, physical features, development potential and the values of homes in the immediate vicinity.

Land & Homes Realty has been established in the Town of Lewisboro for 28 years. As our name suggests, we specialize in land sales. I personally have been a licensed Realtor since 1987 and a licensed Broker since 1996.

I wish to thank you for consulting with Land & Homes Realty.

If I can be of further assistance, please feel free to call.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lawrence H. Roberts, Jr.', written over the word 'Sincerely,'.

Lawrence H. Roberts, Jr.

# Westchester-Putnam Multiple Listing Service, Inc.

Comparative Market Analysis  
Prepared: Monday, January 27, 2014



Prepared for: Rudolph Petruccelli  
Address: Oscaleta Road  
South Salem, NY 10590

Suggested Sale Price  
\$100,000

**Presented By: Lawrence H Roberts Jr**



January 2014

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*This opinion or analysis is not an appraisal. It is intended only for the benefit of the addressee for the purpose of assisting buyers or sellers or prospective buyers or sellers in deciding the listing, offering, or sale price of the real property and not for any other purpose, including, but not limited to, lending purposes. © Copyright 2014 Hudson Gateway Multiple Listing Service, Inc. - Data believed accurate but not warranted. All data subject to verification.*  
U.S. Patent 6,910,045





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<b><u>Comparative Market Analysis for Petruccelli Lot, Oscaleta Road</u></b>				
<b><u>Lots For Sale Within Lewisboro and Somers</u></b>				
Listing #	Subject Property	3335385	3313380	3308614
Address	<u>Oscaleta Road</u>	<u>14 Central Way</u>	<u>Elmwood Road</u>	<u>265 Kitchawan Road</u>
	South Salem	Somers	South Salem	South Salem
Lot Size	0.70 acres	0.52 acres	2.0 acres	2.89 acres
BOHA	Yes	No	No	No
Bedrooms	3	Unknown	Unknown	Unknown
Water Source	Well	Well	Well	Well
Wetland Impact	Yes	No	Yes	Yes
Steep Slopes Impact	No	Possible	Possible	No
Neighborhood Value Comparison		Lower Value Than Subject	Higher Value Than Subject	Higher Value Than Subject
Original Price	Estimated Value:	\$99,000	\$155,000	\$175,000
Current Price	\$100,000	\$99,000	\$155,000	\$165,000
\$ Change		No Change	No Change	\$10,000
List Date		12/5/2013	4/29/2013	3/23/2013
Price Change Date		No Change	No Change	10/5/2013
DOM (as of 1/27/2014)		53	273	310
Notes:				

# Westchester-Putnam Multiple Listing Service, Inc.



## Land

**14 Central Way Somers, NY 10578**

**\$99,000**

Vacant Land in Lake Purdy's area of Somers. Raw land, never had BOH. Survey attached. 2 separate lots 191 x 100 and 251 x 106.

**Directions:** Route 100 to Route 116 to Central. Right on onto Central. vacant land on the right

ML#:3335385		Board of Health App	No
Property Type	Vacant Land	Easements	No
Property SubType	Vacant Land	Estimated Tax	\$1100
Tax ID	5200-017-016-00001-000-0019	Extra Land	No
Lot Sq Ft (approx)	22651	Gas Service	No
Lot Acres (approx)	0.5200	Homeowners Assoc.	No
Price/Acre	190,384.62	Land Use	residential
County	Westchester	Sewer/Septic	Septic
Village	None	Subdv Possible	No
School District	Somers	Survey	Yes
Elementary	Primrose	Topography Desc	level, rolling
Jr. High	Somers	Use/Zoning	Stand Single Family
High School	Somers	Water	Well
Amenities	Close To Railroad		

### Presented By:



#### Lawrence H Roberts Jr

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January 2014

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# Westchester-Putnam Multiple Listing Service, Inc.



**Lot 38 Elmwood Rd South Salem, NY 10590**

**\$155,000**

**Directions:** Rte 35 to Rte 123 (Smith Ridge Rd), left on Shady Ln, right Elmwood Rd, lot on Right before Wakeman.

ML#:3313380		Elementary	Meadow Pond
Property Type	Vacant Land	Jr. High	John Jay
Property SubType	Vacant Land	High School	John Jay
Tax ID	3000-047-000-10056-000-0038	Board of Healt App	No
Lot Sq Ft (approx)	87120	Easements	No
Lot Acres (approx)	2.0000	Estimated Tax	\$2
Price/Acre	77,500.00	Gas Service	No
County	Westchester	Homeowners Assoc.	No
Village	None	Survey	Yes
School District	Katonah-Lewisboro	Water	Private

**Presented By:**

**Lawrence H Roberts Jr**

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January 2014

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## Westchester-Putnam Multiple Listing Service, Inc.



**265 Kitchawan Rd South Salem, NY 10590-2017**

**\$165,000**

Totally private 2.89 acre building site with four bedroom BOH approved septic. Surrounded by stone walls and plenty of mt. laurel. Perk test results and survey attached. You will be surprised at how beautiful and serene your new home site will be!

ML#:3308614		Amenities	Close to School
Property Type	Vacant Land	Board of Health App	Yes
Property SubType	Vacant Land	Easements	No
Tax ID	3000-045-00A-09827-000-0002	Estimated Tax	\$3200
Lot Sq Ft (approx)	126106	Extra Land	Yes
Lot Acres (approx)	2.8950	Gas Service	No
Price/Acre	56,994.82	Homeowners Assoc.	No
County	Westchester	Sewer/Septic	Septic
Village	None	Survey	Yes
School District	Katonah-Lewisboro	Topography Desc	Mt. Laurels, stone walls
Elementary	Meadow Pond	Use/Zoning	Conforming, Stand Single
Jr. High	John Jay		Family
High School	John Jay	Water	Well

**Presented By:**



January 2014

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<b><u>Comparative Market Analysis for Petruccelli Lot, Oscaleta Road</u></b>				
<b><u>Sold Lots Within Lewisboro, Somers &amp; Bedford</u></b>				
Listing #	Subject Property	3105885	2933504	3017195
Address	<u>Oscaleta Road</u>	<u>4 Wilner Road</u>	<u>23 Lakeview Road</u>	<u>328 Cherry Street</u>
	South Salem	Somers	South Salem	Bedford Hills
Lot Size	0.70 acres	0.94 acres	0.40 acres	1.20 acres
BOHA	Yes	No	Yes*	Yes
Bedrooms	3	Unknown	2	3
Water Source	Well	Well	Well	Municipal
Wetland Impact	Yes	No	No	No
Steep Slopes Impact	No	No	No	No
Neighborhood Value Comparison		Same Value As Subject	Same Value As Subject	Higher Value Than Subject
Original Price	Estimated Value:	\$125,000	\$270,000	\$225,000
Reduced Price	\$100,000	\$99,000	\$119,000	\$235,000*
Sale Price		\$65,000	\$105,000	\$153,846
List Date		3/2/2011	11/3/2009	5/18/2010
Sold Date		11/15/2012	4/28/2011	5/22/2012
DOM		624	541	735
Notes:			*Septic Installed	* Price Increase



## Westchester-Putnam Multiple Listing Service, Inc.



**4 Wilner Rd Somers, NY 10589**

**\$65,000**

The last buildable lot from the original Wilner property. Lovely level homesite, great neighborhood. There is a drainage easement running front to back on the property which may affect the size of the buildable footprint. Great opportunity. Bring offers!

**Directions:** Rt 202 to Wilner Road - property on right after first house.

ML#:3105885			School, Close to Shops
Property Type	Vacant Land	Board of Health App	No
Property SubType	Vacant Land	Easements	Yes
Tax ID	5200-017-013-00003-000-0013	Estimated Tax	\$1032
Lot Sq Ft (approx)	41164	Gas Service	No
Lot Acres (approx)	0.945	Homeowners Assoc.	No
Price/Acre	68,783.07	Improvements	none
County	Westchester	Land Use	Res SF
Village	None	Sewer/Septic	Septic
School District	Somers	Survey	Yes
Elementary	Primrose	Terms	Cash
Jr. High	Somers	Topography Desc	Level - staked
High School	Somers	Use/Zoning	Stand Single Family
Amenities	Close To Railroad, Close to	Water	Well

**Presented By:**

**Lawrence H Roberts Jr**

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January 2014

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# Westchester-Putnam Multiple Listing Service, Inc.



**23 Lakeview Rd South Salem, NY 10590**

**\$105,000**

Wow! Build your lake home on flat ready to build oversized property. Lake access directly across from property. Includes deeded lake rights and boat slip. Bring your canoe!!

**Directions:** Rte 35 to Bouton, Left on Main, Left on Osceleta, Left on Lakeview. #23 is on right.

ML#:2933504		Board of Healt App	No
Property Type	Vacant Land	Complex/Lake/Pond	Lake Waccabuc
Property SubType	Vacant Land	Easements	No
Tax ID	3000-033-00B-11368-000-0019	Estimated Tax	\$2700
Lot Sq Ft (approx)	17424	Extra Land	Yes
Lot Acres (approx)	0.400	Gas Service	No
Price/Acre	262,500.00	Homeowners Assoc.	Yes
County	Westchester	Improvements	New 2-BR septic
Village	None	Land Use	Residential
School District	Katonah-Lewisboro	Sewer/Septic	Septic
Elementary	Lewisboro	Survey	Yes
Jr. High	John Jay	Topography Desc	Flat
High School	John Jay	Use/Zoning	Stand Single Family
Amenities	Lake/Pond/Stream, Mooring/Dock	Water	Other/See Remarks

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## Westchester-Putnam Multiple Listing Service, Inc.



**328 Cherry St Bedford Hills, NY 10507**

**\$153,846**

Board of Health approved! Build a three bedroom home on this lovely 1.2 acre parcel. Level setting with usable land. Fabulous location and great opportunity.

**Directions:** Bedford Rd/Rte 117 to Cherry Str. Vacant lot on right between #328 & Harris Road.

ML#:3017195		Board of Health App	Yes
Property Type	Vacant Land	Easements	No
Property SubType	Vacant Land	Estimated Tax	\$3515
Tax ID		Extra Land	No
Lot Sq Ft (approx)	52272	Gas Service	No
Lot Acres (approx)	1.200	Homeowners Assoc.	No
Price/Acre	128,205.00	Improvements	Municipal water
County	Westchester	Land Use	residential
Village	None	Sewer/Septic	Septic
School District	Bedford	Subdv Possible	No
Elementary	Bedford Hills	Survey	Yes
Jr. High	Fox Lane	Topography Desc	Level knoll
High School	Fox Lane	Use/Zoning	Conforming
Amenities	Close To Railroad	Water	Municipal

### Presented By:

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January 2014

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