

TOWN OF WAPPINGER



PLANNING BOARD & ZONING BOARD OF APPEALS

20 MIDDLEBUSH ROAD
WAPPINGERS FALLS, NY 12590
PH: 845-297-6256
Fax: 845-297-0579

Application for an Area Variance

Appeal No.: 22-7764

Date: 9/21/22

TO THE ZONING BOARD OF APPEALS, TOWN OF WAPPINGER, NEW YORK:

I (We), K&J Partners residing at 1083 Route 9, Wappingers Falls, NY
, (phone) (917) 355-1147, hereby,
appeal to the Zoning Board of Appeals from the decision/action of the Zoning Administrator,
dated September 6, 2022, and do hereby apply for an area variance(s).

Premises located at: 39 Middlebush Road

Tax Grid No.: 6157-01-458871

Zoning District: R-20/40

1. Record Owner of Property:

Antonino Licari and Rosalie Licari

Address: 39 Middlebush Road

Phone Number: (845) 297-3646

Owner Consent dated: September 21, 2022

Signature: "Rosalie" Rosalie Licari
Print Name: Rosalie Licari

2. Variance(s) Request:

Variance No. 1

I (We) hereby apply to the Zoning Board of Appeals for a variance(s) of the following requirements of the Zoning Code.

240-37

(Indicate Article, Section, Subsection and Paragraph)

Required: residential district 40,000 square feet without public water or sewer

Applicant(s) can provide: slightly more than 30,696 square feet (minimum lot size if parcel served with public water or sewer)

Thus requesting: approximately 9,304 square feet reduction in minimum lot size

To allow: demolition of non-conforming restaurant building and permit construction of single family residence

Town of Wappinger Zoning Board of Appeals
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Variance No. 2

I (We) hereby apply to the Zoning Board of Appeals for a variance(s) of the following requirements of the Zoning Code.

(Indicate Article, Section, Subsection and Paragraph)

Required: _____
Applicant(s) can provide: _____
Thus requesting: _____
To allow: _____

3. Reason for Appeal (Please substantiate the request by answering the following questions in detail. Use extra sheet, if necessary):

- A.** If your variance(s) is (are) granted, how will the character of the neighborhood or nearby properties change? Will any of those changes be negative? Please explain your answer in detail.

If variance is granted, the resulting character of the property will be consistent with the nearby residential properties. There will be no negative changes to neighborhood. (see attachment) The new lot will be similarly constituted as neighboring parcels of residential property, and in some cases the new parcel is equal to a larger than others in nearby vicinity.

- B.** Please explain why you need the variance(s). Is there any way to reach the same result without a variance(s)? Please be specific in your answer.

The parcel is 1.64 acres and contains one single family residence, one two family residence, and one commercial building that has been used for various food service uses dating back to the 1950s. If the new lot is approved the previous commercial building will be demolished and replaced with a residential structure in conformance with Town Zoning (see attachment).

- C.** How big is the change from the standards set out in the zoning law? Is the requested area variance(s) substantial? If not, please explain in detail why it is not substantial.

Approximately 9,304 square feet. 30,696 square feet is consistent with several of the residential parcels along Middlebush Road west to Old Route 9. The variance is not substantial, and will be conforming once Town planned municipal water or sewer services are supplied to the area.

- D.** If your variance(s) is (are) granted, will the physical environmental conditions in the neighborhood or district be impacted? Please explain in detail why or why not.

The physical environmental conditions will not be impacted; the parcel will be in conformance with the neighboring residential properties and existing residential structures (see attachment).

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**E. How did your need for an area variance(s) come about? Is your difficulty self-created?
Please explain your answer in detail.**

The subject parcel with three buildings was developed 10-15 years prior to the adoption of the Town of Wappinger Zoning Code. The parcel has contained three separate buildings going back to at least the 1950s. The commercial building has been used for restaurant purposes until recent years. The last restaurant user terminated the lease and the building has been vacant for over two years. Rather than apply for a variance to continue to use the commercial building, it was thought in the interest of all parties to create a new lot and remove the commercial structure and erect a new residential structure. The difficulty is self created only to the extent that the restaurant building to be demolished was constructed prior to zoning adoption in the Town.

F. Is your property unique in the neighborhood that it needs this type of variance? Please explain your answer in detail.

While there are other parcels in the neighborhood that have non- conforming commercial structures, the general area is residential. Granting of the variance will permit the property to be developed consistent with current Zoning Regulations. The undersized lot will be conforming as soon as sewer or water is made available to the parcel and the parcel connected thereto.

4. List of attachments (*Check applicable information*)

- (X) Survey dated: September 15, 2022, Last revised _____ and
Prepared by: Brendan Johnson, PLS.
- (X) Plot Plan dated: September 15, 2022.
- () Photos
- () Drawings dated: September 15, 2022.
- () Letter of Communication which resulted in application to the ZBA.
(e.g., recommendation from the Planning Board/Zoning Denial)
Letter from: _____ Dated: _____
- (X) Other (*Please list*): Attached Memorandum in Support of Area Variance which provides analysis and history of the parcel and the proposed benefits of the subdivision.

5. Signature and Verification

Please be advised that no application can be deemed complete unless signed below. The applicant hereby states that all information given is accurate as of the date of application.

SIGNATURE: By: K&J Partners
Kiel Lawrence (Appellant)

DATED: September 21, 2022

SIGNATURE: _____
(If more than one Appellant)

DATED: _____

TOWN OF WAPPINGER



PLANNING BOARD & ZONING BOARD OF APPEALS

20 MIDDLEBUSH ROAD
WAPPINGERS FALLS, NY 12590
PH: 845-297-6256
Fax: 845-297-0579

Owner Consent Form

Appeal No: 22-7764

Date: September 22, 2022

Grid No.: 615701-458871

Zoning District: R-20/40

Location of Project:

39 Middlebush Road, Town of Wappinger

Name of Applicant: K&J Partners c/o Kiel Lawrence (917) 355-1147

Print name and phone number

Description of Project: Subdivision of Parcel into two residential lots; 1 lot will be non-conforming but will eliminate a long standing commercial use. The non-conforming lot will be conforming once sewer is made available to the lot.

I, Rosalie Licari, owner of the above land/site/building hereby give permission for the Town of Wappinger to approve or deny the above application in accordance with local and state codes and ordinances.

September 21, 2022

Date

(845) 297-3646

Owner's Telephone Number

Rosalie Licari

Owner's Signature

Rosalie Licari

Print Name and Title ***

*** If this is a Corporation or LLC, please provide documentation of authority to sign.

If this is a subdivision application, please provide a copy of the deed.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

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

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

Part 1 – Project and Sponsor Information K&J Partners							
Name of Action or Project: Licari Subdivision							
Project Location (describe, and attach a location map): 39 Middlebush Road, see attached surveys/plot plan							
Brief Description of Proposed Action: Subdivide 1.64 acre of parcel into two parcels; the smaller parcel will be greater than 30,000 square feet which will be conforming when water and/or sewer are provided to the subdivided parcel.							
Name of Applicant or Sponsor: K&J Partners		Telephone: (917) 355-1147					
		E-Mail: kiel@redh.com					
Address: 1083 Route 9							
City/PO: Fishkill		State: NY	Zip Code: 12524				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; text-align: center;"> <tr> <td>NO</td> <td>YES</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Town of Wappinger Planning Board; Curb cut permit from Highway Superintendent			<table border="1" style="width: 100%; text-align: center;"> <tr> <td>NO</td> <td>YES</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3. a. Total acreage of the site of the proposed action?		1.6 acres					
b. Total acreage to be physically disturbed?		.5 acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		approx. .64 acres					
4. Check all land uses that occur on, are adjoining or near the proposed action:							
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)							
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): School District and Municipal							
<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: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: New residential structure will comply with State Energy Code	<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: <u>existing well water</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: <u>existing septic</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	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? If Yes,	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	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"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: K&J Partners by Kiel Lawrence Date: September 21, 2022		
Signature: <u><i>K. Lawrence</i></u> Title: Partner		

PRINT FORM

FOR OFFICE USE ONLY

1. THE REQUESTED VARIANCE(S) ☐ WILL / ☐ WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD.
2. ☐ YES / ☐ NO, SUBSTANTIAL DETRIMENT WILL BE CREATED TO NEARBY PROPERTIES.
3. THERE ☐ IS (ARE) / ☐ IS (ARE) NO OTHER FEASIBLE METHODS AVAILABLE FOR YOU TO PURSUE TO ACHIEVE THE BENEFIT YOU SEEK OTHER THAN THE REQUESTED VARIANCE(S).
4. THE REQUESTED AREA VARIANCE(S) ☐ IS ☐ ARE) NOT SUBSTANTIAL.
5. THE PROPOSED VARIANCE(S) ☐ WILL / ☐ WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT.
6. THE ALLEGED DIFFICULTY ☐ IS / ☐ IS NOT SELF-CREATED.

CONCLUSION: THEREFORE, IT WAS DETERMINED THE REQUESTED VARIANCE IS
☐ GRANTED ☐ DENIED

CONDITIONS / STIPULATIONS: The following conditions and/or stipulations were adopted by the resolution of the Board as part of the action stated above:

☐ FINDINGS & FACTS ATTACHED.

DATED: _____

ZONING BOARD OF APPEALS
TOWN OF WAPPINGER, NEW YORK

BY: _____
(Chairman)

PRINT: _____