

**TOWN OF WAPPINGER**

**PLANNING BOARD**

**PROJECT NAME:** Licari Subdivision

**MEETING DATE:** January 4, 2023

**ACCOUNT NUMBER:** 22-5220

**DATE PREPARED:** December 1, 2022

     SITE PLAN      SPECIAL USE PERMIT   X   SUBDIVISION

**THE ATTACHED HAS BEEN REFERRED TO YOU FOR YOUR COMMENTS AND RECOMMENDATIONS. PLEASE SUBMIT ANY COMMENTS TO THE TOWN OF WAPPINGER PLANNING BOARD, 20 MIDDLEBUSH ROAD, WAPPINGERS FALLS, NY 12590 WITHIN FIFTEEN (15) DAYS.**

  1   TOWN FILE

  7   TOWN OF WAPPINGER PLANNING BOARD

  1   ENGINEER TO THE PLANNING BOARD

  1   PLANNER TO THE TOWN

  1   ATTORNEY TO THE PLANNING BOARD

  1   HIGHWAY SUPERINTENDENT

  1   FIRE PREVENTION BUREAU

     RECREATION

     ARMY CORP. OF ENGINEERS

     DUTCHESS COUNTY DEPT. OF PLANNING

  1   DUTCHESS COUNTY DEPT. OF PUBLIC WORKS

     NEW YORK STATE DEPT. OF TRANSPORTATION

  1   DUTCHESS COUNTY DEPT. OF HEALTH

  1   DUTCHESS COUNTY SOIL & WATER

  1   NYS DEPT OF D.E.C

     TOWN OF FISHKILL

     TOWN OF EAST FISHKILL

     TOWN OF LAGRANGE

     VILLAGE OF WAPPINGER PLANNING BOARD

     BUILDING INSPECTOR

  1   ZONING ADMINISTRATOR-BARBARA ROBERTI

     TOWN CLERK

     CAMO POLUTION

     STORM WATER MANAGEMENT (WALTER ARTUS)

     CENTRAL HUDSON

\*\*\*\*\* PLEASE NOTE ANY VIOLATIONS UPON YOUR REVIEW\*\*\*\*\*

# TOWN OF WAPPINGER



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NOV 21 2022

Planning Department  
Town of Wappinger

TOWN SUPERVISOR  
Richard Thurston

TOWN BOARD  
William H. Beale  
Angela Bettina  
Robert Johnston  
Michael Kuzmiec

## ZONING ADMINISTRATOR

Barbara Roberti  
Ext. 128

## PLANNING BOARD SECRETARY

Bea Ogunti  
Ext. 122

## PLANNING DEPARTMENT

20 MIDDLEBUSH ROAD  
WAPPINGERS FALLS, NY 12590  
(845) 297-6256 ext. 122  
Fax (845) 297-0579  
www.townofwappinger.us

## PRELIMINARY LAYOUT APPLICATION FOR SUBDIVISION OF LAND

Application # 22-5220  
Application Fee: \$ 2,000.00

DATE: 12/1/22  
ESCROW FEES 3,750.00

**Note:** This application shall conform in all respects to the Land Subdivision Regulations of the Planning Board of the TOWN OF WAPPINGER.

1. Proposed Name of Subdivision: Licari Subdivision
2. Location of Property: 39 Middlebush Road, Wappingers Falls, NY 12524  
  
Tax Section: 6157 Block 01 Lot (2) 458871
3. Name and Address of Applicant: K+J Partners  
1083 Route 9 Fishkill, New York 12524  
Phone No. 917 - 355 - 1147 Email: Kiel@RedLH.com  
Corporation, give name of agent: Kiel Lawrence  
Phone No 917 - 355 - 1147
4. Name and Address of Record Owner: Antonino + Rosalie Licari  
39 Middlebush Road, Wappingers Falls, NY 12524  
Phone No. (845) 297-3646 Email: Lialicari99@gmail.com
5. A statement of liens, mortgages, or other encumbrances are attached hereto -  
(If none, so state) None
5. A statement of any easements relating to the property is attached hereto -  
(If none, so state) None
6. Deed or deeds recorded in County Clerk's Office:  
Date: 07/21/1980 Liber: 1539 Page: 648
7. I own or have an interest in abutting property as stated on the attached sheet.  
(If none, so state) NONE
8. Name, address, and license number of Engineer or Land Surveyor: Brandon Johnson, PLS  
10 Meadow Lane, Pleasant Valley, NY 12569 Phone No. (845) 380 0528

According to the Dutchess County Soil Survey, the following soil types are found on the property:

9. According to the Dutchess County Soil Survey, the following soil types are found on the property:

Dutchess-Cardigan complex

This Property is in the R20/40 Zone.

Preliminary Layout covers 1.64 acres.

Approximate number of lots 2

Does owner propose to submit Final Subdivision Plat to cover entire Preliminary Layout, or file same in sections?

Preliminary Layout

Does the Preliminary Layout cover the entire holding of the applicant? Yes.

Does the applicant propose to dedicate to the public all streets, highways, and parks shown on the Preliminary Layout?

N/A

Give number of acres which applicant proposes to dedicate to public use for parks and/or playground purposes.

N/A

Does owner intend to request any waivers of the requirements of the Land Subdivision Regulations of this Board upon the submission of the Final Plat for approval? No.

If any waivers of any requirements are to be requested, list them and give reasons why such requirements should be waived.

Print name ( Corporation, LLC, Individual, etc.)

11/17/22

Date

K&J Partners

Applicant / Owner or representative's signature

Kiel Lawrence

By: Kiel Lawrence, Agent

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

TOWN OF WAPPINGER



PLANNING BOARD & ZONING BOARD OF APPEALS

20 MIDDLEBUSH ROAD  
WAPPINGERS FALLS, NY 12590  
PH: 845-297-6266  
Fax: 845-297-0679

Owner Consent Form

Appeal No: 22-7764  
Grid No.: 615701-458871

Date: September 22, 2022  
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

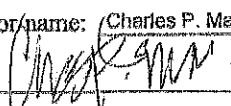
**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. 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.

<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: K and J Partners Project 39 Middlebush Road			
Project Location (describe, and attach a location map): 39 Middlebush Road Town of Wappingers Falls , Dutchess County, New York.			
Brief Description of Proposed Action: The applicant has recently received an area variance for the above subject property and presently desires to move forward with a subdivision application .Lot #1 will have an area of 30, 709 S.F. and Lot # 2 will have an area of 40 , 977 S.F. Once approved by the various agencies Lot # 1 will contain a proposed residential structure and Lot # 2 will remain with the existing structures and will not differ from the present environment.			
Name of Applicant or Sponsor: K and J Partners		Telephone: 917-355-1147 E-Mail: kiel@redlh.com	
Address: 1083 Route 9			
City/PO: Fishkill		State: New York	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.			NO <input checked="" type="checkbox"/> YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input checked="" type="checkbox"/> YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		1.646 acres	
b. Total acreage to be physically disturbed?		0.110 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.646 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <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			

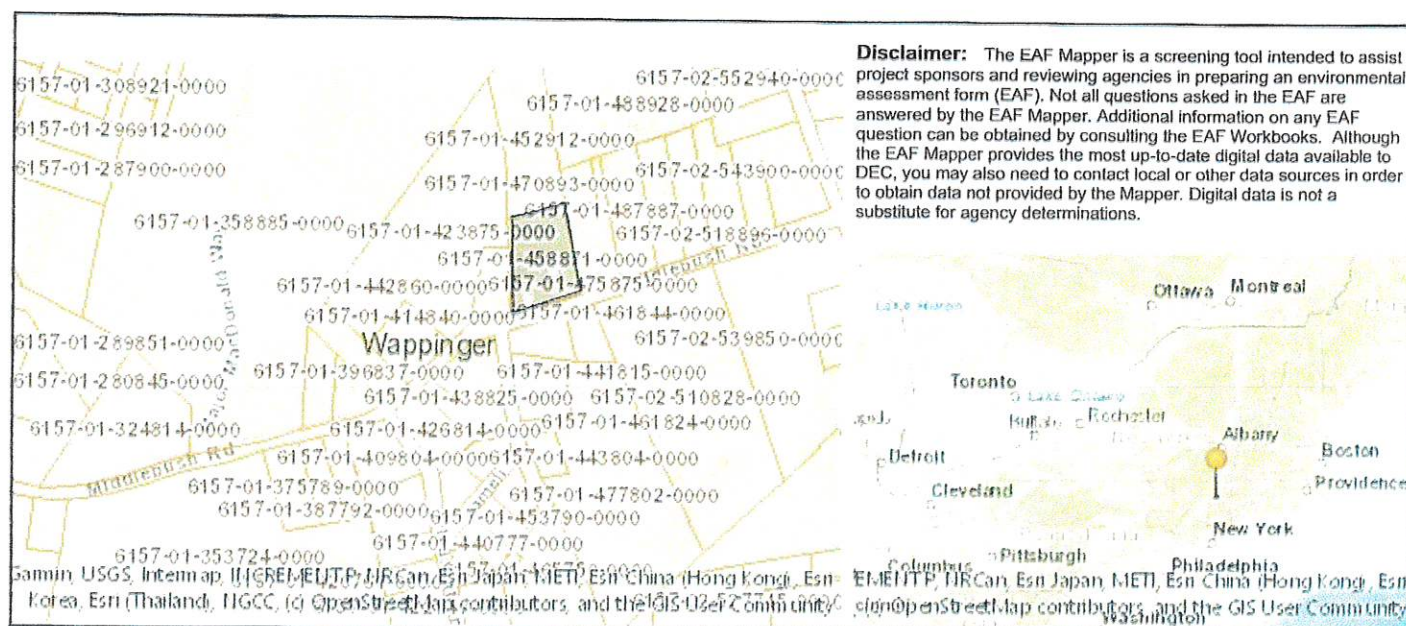
5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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: _____	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<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: _____ An onsite well will be drilled in order to provide water.	<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: _____ An onsite sewage disposal system will be designed to provide waste water treatment.	<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 type="checkbox"/>	<input checked="" 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: _____ The proposal will not alter or encroach any wetlands or water bodies.			



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? Indiana Bat	NO	YES
	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Stormwater discharges will be conveyed to a designed storm drainage system that will impede flow to adjacent properties.		
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"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>Charles P. May RLA</u> Date: <u>11/15/2022</u>		
Signature: <u></u> Title: <u>Project Engineer</u>		

## EAF Mapper Summary Report

Tuesday, September 20, 2022 11:01 AM



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Indiana Bat
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No



**PLANNING BOARD SECRETARY**  
Bea Ogunti - Ext. 122

**ZONING ADMINISTRATOR**  
Barbara Roberti - Ext. 128

**ZONING BOARD of APPEALS**  
Peter Galotti, Chairman  
David Barr  
Tom DellaCorte  
John Lorenzini  
Shailesh Shah

## TOWN OF WAPPINGER



**PLANNING BOARD**  
**ZONING BOARD OF APPEALS**  
20 MIDDLEBUSH ROAD  
WAPPINGERS FALLS, NY 12590  
PH: 845-297-6256  
Fax: 845-297-0579

**TOWN SUPERVISOR**  
Dr. Richard L. Thurston

**TOWN BOARD**  
William H. Beale  
Angela Bettina  
Al Casella  
Christopher Phillips

**PLANNING BOARD**  
Bruce Flower, Chairman  
Robert Ceru  
Paul Freno  
Anjos Reinaldo  
Nicholas Maselli  
Markos Peratikos  
Lynne Versaci

October 31, 2022

**To:** Joseph Paoloni  
Town Clerk

**From:** Bea Ogunti, Secretary  
Town of Wappinger Zoning Board of Appeals

**Re:** Licari Subdivision Decision  
Appeal No. 22-7764

Attached you will find the original Application/Decision & Order for Licari Subdivision, 39 Middlebush Road, Wappingers Falls, NY 12590, Tax Grid No.: 6157-01-458871. I would appreciate it if you would file these documents.

**Attachments**

**cc:** Licari Subdivision  
Planning Board  
Town File  
Building File

TOWN OF WAPPINGER



PLANNING BOARD & ZONING BOARD OF APPEALS

20 MIDDLEBUSH ROAD  
WAPPINGERS FALLS, NY 12590  
PH: 845-297-6266  
Fax: 845-297-0579

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SEP 22 2022

Zoning Board of Appeals  
Town of Wappinger

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 30,000 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  
Application for an Area Variance  
Appeal No.: 22-1164

**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.

240-37

(Indicate Article, Section, Subsection and Paragraph)

Required: 125' lot width  
Applicant(s) can provide: 89'  
Thus requesting: 30'  
To allow: for a 2 Lot Subdivision

**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. 30,646 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).

Town of Wappinger Zoning Board of Appeals  
Application for an Area Variance  
Appeal No.: 22-7764

**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.

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

DATED: September 21, 2022

SIGNATURE: \_\_\_\_\_  
(If more than one Appellant)

DATED: \_\_\_\_\_

**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:

The ZBA voted to grant the following variances:

Where 40,000 square feet is required, the applicant could provide 30,696 square feet for the construction of a single family residence on 1.64 acres, thus a variance of 9,304 square feet was **GRANTED**.

Where 125' lot width is required, the applicant could provide 89' for the lot width, thus a variance of 36' was **GRANTED**.

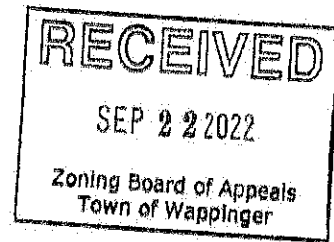
**DATED:** October 25, 2022

ZONING BOARD OF APPEALS  
TOWN OF WAPPINGER, NEW YORK

BY: Peter Galotti  
(Chairman)  
PRINT: Peter Galotti



ZONING BOARD OF APPEALS  
TOWN OF WAPPINGER



In the Matter of the Application of

K&J PARTNERS

For a variance to authorize a lot less than 40,000 square feet

**MEMORANDUM IN SUPPORT OF AREA VARIANCE**

The property is located at 39 Middlebush Road, Town of Wappinger, New York and is located in an R-20/40 Zoning District which requires a minimum lot size of 40,000 square feet if the lot is served by private well and private septic; 30,000 square feet if served by central water or sewer, and 20,000 square feet if served by both central water and central sewer. It is respectfully submitted that the Town intends to serve this area with both central sewer and central water, although plans have yet to be developed it is believed that a sewer line is within 1,000 feet of the property.

**HISTORY**

Mr. & Mrs. Licari originally purchased the property in 1980; they were represented by an out-of-town attorney and the file is no longer available. The property consists of approximately 1.64 acres; the property contains one residential structure (where they live), a separate structure containing two one-bedroom apartments and a third building that had been used for various commercial purposes, all food or restaurant related, going back the 1950s. The Licari's purchased the property from the Schmidke family which had operated the Schmidke Pork Store in the restaurant building. The undersigned remembers the Pork Store being located at the site when he was in high school. All of the buildings were constructed prior to the Town's adoption of the Zoning Code and the buildings are "pre-existing" and "non-conforming".

Upon Mr. & Mrs. Licari purchasing the property, the pork store was converted to a restaurant which they operated as DaNino's Restaurant until June of 1997. I do not know the details of the conversion of the building to a restaurant. After they closed the restaurant, the building was leased to various tenants for either restaurant purposes or food service businesses including: The Orchard Restaurant, Della Calce Italian Restaurant, Stefano's Restaurant, Gallagher's Deli, and Cugino's Restaurant D/B/A Stefano's Ristorante (again). The principals of Cugino's Restaurant leased the premises and commenced renovations for use as a restaurant. Unfortunately, they changed their minds and eventually the lease was terminated before renovations were completed. The restaurant never re-opened. The restaurant building has essentially been vacant since May 1, 2019.

## PROPOSAL

In anticipation of seeking a variance to re-open the restaurant building, I consulted with John Lawrence, one of the principals in K&J Partners was brought in as a consultant for his expertise in construction and renovating older buildings. Since the building has been vacate for more than two years, it's non-conformity has expired. My initial purpose was to seek his expertise in determining the costs to complete the renovations (abandoned by Cugino's Restaurant) in an effort to authorize the building to be once again used as a restaurant. During the course of discussions, Mr. Lawrence indicated his firm would be willing to buy the property if the property could be subdivided into two lots, with one lot containing the restaurant building, which eventually would be demolished, and replaced with a single-family home. It is this proposal that is before you this evening.

The proposed subdivision would create two separate parcels: one parcel, Lot 2, will contain the existing single-family residence and the separate building containing two one-bedroom apartments; the second parcel, Lot 1, will contain the restaurant building to be demolished and replaced with a single-family residence. Lot 1 will have approximately 30,300 square feet and Lot 2 will have approximately 41,200 square feet.

In order for Lot 1 to be subdivided, a variance from the technical provisions of the Schedule of Dimensional Regulations, Residential Districts, to reduce the lot size from the required 40,000 square feet to approximately 30,300 square feet, which is greater than the minimum lot size if municipal water or municipal sewer were available to serve the new parcel.

## CONCLUSION

The proposal to create a 30,300 square foot parcel will ultimately bring this property into conformance with the Zoning Code once municipal water and sewer services are extended to the site. It is believed that water and sewer pipes are within 1,000 feet of the site and once the Town implements a water or sewer expansion this parcel will be in conformance.

The alternative is to seek a variance to allow the restaurant building to again be used as a restaurant/food services building, which will only perpetrate a non-conforming use.

Respectfully Submitted,

ALBERT P. ROBERTS, ESQ.  
Partner Emeritus  
STENGER, DIAMOND & GLASS, LLP  
1136 Route 9  
Wappingers Falls, NY 12590  
aroberts@sdglaw.com  
APR/ajs

Cc: Barbara Roberti