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December 26, 2025

VIA HAND DELIVERY

Chairman Scalzo
and Members of the Zoning Board of Appeals
Town of Newburgh
21 Hudson Valley Professional Plaza
Newburgh, NY 12550
Attn: Siobhan Jablesnik, Secretary to the Board

Re: Request for Zoning Determination/Interpretation, and
In The Alternative, Applications for Area Variances or a Use Variance
Applicants: Nick DiLemme, Jennifer McHugh DiLemme, & Di Lemme & Sons, Inc.
Premises: 2201 State Route 300, Town of Newburgh, New York
Tax ID: 3-1-91.2

Dear Chairman Scalzo and the Members of the Zoning Board of Appeals,

On behalf of Nick DiLemme and Jennifer McHugh DiLemme, the owners of the property located at 2201 State Route 300 in the Town of Newburgh (the "Premises"), and Di Lemme & Sons, Inc.¹ ("DiLemme & Sons" or the "Company" and collectively, the "Applicants"),² we respectfully submit this letter and the referenced enclosures in support of their: (i) Request for a Determination/Interpretation ("Zoning Determination" or "Interpretation Request"); and, in the alternative, requests for (ii) area variances to permit the Company's continued use of the Premises as it has for over four (4) decades; or (iii) a use variance to permit the same (collectively, the "Applications"). These Applications timely appeal the determination of the Code Compliance Supervisor, Gerald Canfield, dated October 28, 2025 (the "Determination Letter" or "Determination").³

By way of background, the Company's commercial use of the Premises dates back to approximately 1980, when Nick DiLemme's father, Nicandro DiLemme, started his masonry and concrete business after losing his job with the Ford Motor Company in connection with its closure of the Ford Assembly Plant in Mahwah, New Jersey. Nicandro's indenture quickly proved successful, and, by the mid-1980s, it had grown into a family business.

As one can imagine, running a masonry and concrete business primarily involves two (2) distinct operations: back-of-office work (i.e., administrative) and off-site field work, the latter of which

¹ D/B/A DiLemme & Sons, Inc.

² Nick DiLemme is a Principal of the Company.

³ See **Attachment L**.

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requires a place to park and store vehicles and equipment when not in use on job sites. The family business was no different – Nicandro and his wife, Francesca, and his sister, Antonette, used the basement of the family home on the Premises as an office (the “Basement Office”), and the family business used the detached 2-car garage and adjacent parking area on the Premises for vehicle and equipment parking and storage. The Company, which also provided concrete masonry and finishing services, was formally incorporated in 1987 and has continued to utilize the Premises for the same limited purposes.

As is more fully detailed herein, in September 2024, the Applicants were issued a Notice of Violation and Order to Remedy concerning the Company’s commercial use of the Premises (the “Order to Remedy”).⁴ Following the Order to Remedy, an Appearance Ticket was issued,⁵ and pursuant to New York Town Law § 267-a(6), the Town Justice Court proceedings are stayed pending this appeal of the Determination Letter.

Critically, the Applicants’ preparation for and submission of these Applications in support of this appeal of the Determination Letter has been inhibited by the Town’s non-production of responsive documents, tantamount to a constructive denial of their September 25, 2025, Freedom of Information Law request (the “FOIL Request”) for copies of the Town of Newburgh’s Zoning Code from 1960 to the present, among other relevant documents (the “Historical Zoning Codes”).⁶ Despite continued follow-ups by the Applicants and narrowing of the scope of the FOIL Request,⁷ the only Historical Zoning Codes that the Applicants have received were those attached to the Determination Letter — the 1974 Zoning Map and select excerpts of Local Law No. 4 of 1974.⁸ Likewise, the inability to properly assess whether the Company’s use of the Premises is legally nonconforming (i.e., reviewing the Zoning Code(s) dating back to the time the use(s) began), either in whole or in part, affects both the Town and the Applicants’ abilities to accurately assess what, if any, variance relief may be necessary. This is also patently unfair to the Applicants.

Accordingly, as an initial matter, it is respectfully requested that the Public Hearing on the Applications be postponed until the Applicants have obtained and reviewed the Historical Zoning Codes from the Town pursuant to the FOIL Request. For these reasons, the Applicants also reserve all rights to amend and supplement the Applications pending before this Board.

⁴ Enclosure to the Service of Appearance Letter to Nick DiLemme. *See* **Attachment I**.

⁵ *Id.*

⁶ *See* **Attachment M** – Emails between Riddar Nget and Town FOIL Officers regarding the FOIL Request.

⁷ *Id.*; refer to the emails dated December 12, 2025.

⁸ *See* **Exhibits A and B of Attachment L**.

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BACKGROUND - THE PREMISES:

The Premises is located at 2201 State Route 300 in the Town of Newburgh.⁹ It consists of a 1.2-acre parcel,¹⁰ which is currently improved with a single-family residence and driveway access to Route 300, a detached two (2)-car garage (the “Workshop”), an asphalt and gravel parking area with separate driveway access from Strawridge Road (the “Parking Area”), together with other site improvements, such as landscaping and a fence partially enclosing the Premises around the Workshop and the Parking Area.

The Premises is presently classified in the Agricultural Residence (AR) District and located in an area generally developed with single-family residences, several of which are on properties also serving as the location of commercial enterprises. Several examples are as follows: Hey Budd! LLC, located at 9 Kings Drive; Cass Jr. & Associates, LLC (d/b/a Blackrock Excavating), located at 2102 State Route 300; and Ruggiero Landscaping, located at 625 Rock Cut Road.

The Premises has been in the DiLemme family since November 12, 1963, when it was conveyed by Lillian and Louis Carfizzi to Nicandro DiLemme.¹¹ Nick and Jennifer DiLemme took title to the Premises from Francesca and Nicandro DiLemme on February 26, 2004.¹²

THE DILEMME FAMILY & THE COMPANY:

As noted above, Nicandro DiLemme began working as a mason out of the Premises after losing his job with the Ford Motor Company in connection with its closure of the Ford Assembly Plant in Mahwah, New Jersey, the closure of which occurred in the summer of 1980. Nicandro’s business continued to grow over the years, as did its needs, and he received approval for and constructed the Workshop to provide adequate space for his business (e.g., storage of vehicles and

⁹ Note: The Premises has previously been identified by several other addresses, including:

Route 300, Box 119, Wallkill, NY 12589; **see Attachment F** – 1987 Certificate of Incorporation;

841 Rt. 300, Wallkill, NY 12589; **see Attachment G** – April 1992 Biennial Statement; and

RD #2, Route 300, Box 119, Wallkill, NY 12589; **see Attachment H** – Prior Company Mailer.

¹⁰ The Premises consists of a single parcel currently identified as Tax ID 3-1-91.2 as a result of the merger of the properties formerly identified as Tax IDs 3-1-91 (1.0 acres) and 3-1-92 (0.2 acres). Refer to the March 2007 letter from the Assessor of the Town of Newburgh, enclosed hereto as **Exhibit H** of **Attachment K** – the Interpretation Request.

¹¹ **See Exhibit A** of **Attachment K**.

¹² **See Attachment E** – Certified Deed Conveying the Premises from Francesca and Nicandro DiLemme to Jennifer McHugh and Nick DiLemme.



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equipment) in 1984.¹³ The growing needs of the business also led to the establishment of the Basement Office in the family's residence and the hiring of additional office employees, his wife and sister, and additional masons, including Nicandro and Francesca DiLemme's sons, John and Nick.

The family business and its services continued to grow, and included cement masonry and concrete finishing, and was formally incorporated under DiLemme & Sons on April 6, 1987.¹⁴ The Company has continued to operate out of the Premises since then, with Nick DiLemme becoming its Principal in 2005, and it is currently managed by Nick and his brother-in-law, Kevin Eisloeffel.¹⁵

The Company has weathered significant setbacks since 2005, namely the Great Recession, which severely impacted the construction industry for years, and the recent COVID-19 Pandemic (the "Pandemic"), which, after bringing the industry to a halt, resulted in the current post-pandemic construction boom and its materials and labor shortages. The effects of these events are reflected in the Company's attempts to develop and permanently relocate to its property on New Road, which is classified within the Town's Business (B) Zoning District (the "New Road Property").¹⁶

THE NEW ROAD PROPERTY (IN THE TOWN OF NEWBURGH):

In 2008, the Company applied for and received Site Plan approval from the Town of Newburgh Planning Board (the "Planning Board") to keep the business in the Town, which would involve developing the New Road Property with a Commercial Building, consisting of offices and indoor storage for specific vehicles, equipment, and materials, an Outdoor Storage and Equipment Yard, and related site improvements.¹⁷ The effects of the Great Recession took hold at approximately this time, preventing the Company from developing and relocating to the New Road Property, and the Site Plan approval ultimately expired due to the lingering effects of the recession on the construction industry.

¹³ Refer to Building Permit No. 0-5732 issued by the Town of Newburgh, dated June 12, 1984, closed out September 10, 1984. See **Exhibit F** of **Attachment K**.

¹⁴ See **Attachment F** – Certified copy of the Company's 1987 Certificate of Incorporation.

¹⁵ Note: The Interpretation Request inaccurately described Kevin as having "DiLemme" for a last name.

¹⁶ Tax ID: 34-2-99.2.

¹⁷ Refer to the Site Plan for DiLemme & Sons, Inc., signed by the Chairman of the Planning Board on September 22, 2008. See **Attachment N** – 2008 Approved Site Plan for the New Road Property.

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The Company was once again in a position to pursue its development of the New Road Property after the Pandemic, and the Applicants prepared an updated Site Plan (the “Updated Site Plan”)¹⁸ in response to the Order to Remedy issued to them by James Campbell, Town Code Enforcement Official, on September 13, 2024.¹⁹ The finalization and submission of the New Site Plan to the Planning Board has since been delayed due to the enactment of the new wetlands regulations of the State Department of Environmental Conservation (“DEC”). These regulations resulted in the wetland(s) on the New Road Property being deemed to have met the Unusual Importance (“UI”) criterion of being located within or adjacent to an urban area.²⁰ The DEC recently validated the updated wetlands delineation for the New Road Property,²¹ and the Company’s project professionals have requested a pre-application meeting with the DEC’s Division of Permits to discuss the feasibility of the New Site Plan or alternative designs.

2024 NOTICE OF VIOLATION & ENFORCEMENT PROCEEDINGS:

In September 2024, the Town Code Compliance Department issued an Order to Remedy to Nick and Jennifer DiLemme alleging the following violations:

1. Section 185-7A & 7F of the Town Code, which prohibit uses in the AR District not specified in Schedule 2 of the Table of Use and Bulk Requirements;
2. Section 185-13E, which only allows for the off-street parking of commercial vehicles in all residential districts subject to certain conditions and limited exceptions; and
3. Section 185-50A(2), which prohibits the operation of a business without a certificate of occupancy.²²

Per his Notices of Inspection, James Campbell, Town Code Enforcement Official, inspected the Premises twice (September 8th and 11th of 2024) before issuing the Order to Remedy, and he performed a follow-up inspection on May 22, 2025.²³ The Applicants’ alleged failure to comply with the Order to Remedy led to the issuance of the Appearance Ticket dated June 2, 2025.²⁴ The

¹⁸ Refer to the Site Plan for the Lands of N & J New Road Properties LLC, prepared by Darren Doce, P.E., dated November 11, 2024, enclosed hereto as **Attachment O**.

¹⁹ Refer to Nick DiLemme’s Letter to James Campbell, Town Code Enforcement Official, dated October 22, 2024, enclosed hereto as **Attachment J**.

²⁰ Refer to the DEC’s Letter of Positive Jurisdiction dated October 10, 2025, enclosed hereto as **Attachment P**.

²¹ Said delineation is depicted on the Survey Map prepared by Miles Land Surveying, dated December 11, 2025, enclosed hereto as **Attachment Q**.

²² Enclosure to the Service of Appearance Letter to Nick DiLemme. See **Attachment I**.

²³ Id.

²⁴ Id.

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subsequent enforcement proceedings in the Town of Newburgh Justice Court are currently adjourned and will be further stayed pending this Board's review and decision on the Applicants' appeal from the Determination Letter, pursuant to Town Law § 267-a(6).

**THE APPLICANTS' REQUEST FOR A ZONING DETERMINATION AND
THE DETERMINATION OF THE CODE COMPLIANCE DEPARTMENT:**

Upon receiving the consent of the People and Court in the ongoing enforcement proceedings, the Applicants submitted the Interpretation Request to the Supervisor of the Code Compliance Department on October 3, 2025, seeking confirmation that the Company's commercial use of the Premises is a legal nonconforming use. *See Attachment K.* Several weeks later, the Town's Code Compliance Supervisor concluded that the Company's use of the Premises was not entitled to the nonconforming use protections in Section 185-19 of the Town Code in the Determination Letter. *See Attachment L.*

Citing Section 185-19(A) of the current Town Code, the definition of "Nonconforming Building or Use" in Section 185-3 of the current Code, and select provisions of the Town of Newburgh Local Law No. 4 of 1974, the Code Compliance Supervisor concluded that: "[t]he business use of the Premises which you represent was commenced in the early 1980s and continued by DiLemme & Sons does not fall within any of the Permitted Uses and Uses Subject to Site Plan Review listed in the AR District table of Local Law No 4 of 1974."²⁵ The Code Compliance Supervisor further concluded that the Company's use of the Premises "does not fall within [Local Law No. 4 of 1974's] definition of 'Home Occupation,'²⁶ an allowed accessory use for single family dwellings in that table as it is not a use customarily conducted within a dwelling."²⁷

²⁵ Page 3 of **Attachment L.**

²⁶ Allegedly defined as, "shall mean any gainful occupation or profession customarily conducted within a dwelling the residents thereof, clearly secondary to the use of the dwelling for living purposes, and which does not change the character of the structure as a residence. Said activity shall not have more than one (1) non-resident employee working on the premises at any one time and shall not occupy more than one half (1/2) of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used. Permissible home occupations include, but are not limited to, the following: art studio; dressmaking; offices for a clergyman, lawyer, physician, dentist, architect, engineer, real estate agent or accountant; teaching with musical, dancing and other instruction limited to one (1) pupil at a time. However, home occupations shall not be construed to include uses such as the following: clinic or hospital, barber shop or beauty parlor, restaurant, animal hospital or commercial animal breeding." *Id.*

²⁷ *Id.*

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**I. APPEAL FROM THE DETERMINATION OF THE CODE COMPLIANCE SUPERVISOR:
THE APPLICANTS SEEK A FAVORABLE DETERMINATION THAT THE COMPANY'S USE
OF THE PREMISES IS A LEGALLY EXISTING NONCONFORMING USE:**

Pursuant to Section 185-54A(1) of the Town Code, the Applicants appeal the Determination Letter to this Board, serving in its *de novo* role, and respectfully request this Board favorably conclude that the Company's use of the Premises is a legal nonconforming use entitled to the protections of Section 185-19 of the Town Code. For the reasons set forth herein and as will be discussed at the public hearings regarding these Applications, the Applicants respectfully submit that the Company's commercial use of the Premises is in fact a legal nonconforming use that is protected under State law and the Town Code.

DiLemme & Sons' Historical Use of the Premises:

As detailed above, the commercial use of the Basement Office, Workshop, and Parking Area has been continuous for over forty (40 years), dating back to the early 1980s. When considering the following, we note that New York law requires a plain reading of the Town's Zoning Code.²⁸ In addition, since zoning restrictions are in derogation of common-law property rights, their provisions must be strictly construed,²⁹ with any ambiguities interpreted in favor of an Applicant (i.e., property owner).³⁰

Due to the Applicants' lack of access to the Historical Zoning Codes,³¹ we submit the following rebuttals to certain statements made in the Determination Letter (*statements in italics*):

- i. *[A]ny use which was commenced in violation of the Town's Zoning law prior to the effective date of Local Law No. 4 of 1991[,] [the Town's current Zoning Code,] is not considered by the [Code Compliance] Department as one which "lawfully existed" prior to the enactment.*³²

As more fully detailed below, the Applicants submit that the Company's use of the Premises since the early 1980s was not in violation of the Town's Zoning law prior to the effective date of Local Law No. 4 of 1991.

²⁸ See *Toys "R" Us v. Silva*, 89 N.Y.2d 411, 420-21 (1996).

²⁹ *Id.* at 421-22.

³⁰ See *Allen v. Adami*, 39 N.Y.2d 275, 277 (1976).

³¹ Refer to the prior discussion of the Applicants' FOIL Request, *supra*, page 2.

³² Refer to page 3 of **Attachment L**.

- ii. *The business use of the Premises [by the family business] which you represent was commenced in the early 1980's and continued by DiLemme & Sons does not fall within any of the Permitted Uses and Uses Subject to Site Plan Review listed in the AR District table of Local Law No. 4 of 1974.*³³

The Applicants have not been provided copies of the Historical Zoning Codes, which the Applicants sought through the FOIL Request, and therefore the Applicants cannot confirm whether the provisions of Local Law No. 4 of 1974 cited in the Determination Letter applied to the Premises or the Company's use of it from the 1980s to the present.

Importantly, the above statement omits the Accessory Uses in the AR District table of Local Law No. 4 of 1974 (the "1974 Schedule of Uses"), which may have been allowed as-of-right and therefore not subject to the issuance of certificates or permits.³⁴ Under the 1974 Schedule of Uses, the Accessory Uses for the AR District included those of the R-2 District (nos. 1-3), the first of which incorporates by reference Accessory Uses nos. 1-7 of the R-1 District.³⁵

Accordingly, the 1974 Schedule of Uses permitted the following relevant Accessory Uses on the Premises: "Home occupations,"³⁶ "Private garage or carport for not more than four vehicles,"³⁷ "Off-street parking for commercial vehicles operated by the occupants of the permitted residence when such vehicles are housed in a garage or carport,"³⁸ and "Off-street parking, not under cover, for not more than one commercial vehicle not over 25 feet in length."³⁹ The aforementioned Accessory Uses contain several terms that are subject to interpretation if not defined in Local Law No. 4 of 1974, such as "commercial vehicle(s)," the definition for which may not have been adopted until September 1998,⁴⁰ "private garage," "carport," and "occupants."

³³ Id.

³⁴ Id., **Exhibit B**.

³⁵ Id.

³⁶ Id., Accessory Use no. 1 of the R-1 District.

³⁷ Id., Accessory Use no. 2 of the R-1 District.

³⁸ Id., Accessory Use no. 2 of the R-2 District.

³⁹ Id., Accessory Use no. 3 of the R-2 District.

⁴⁰ Refer to n. 52, *infra*, page 11.

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- iii. *Furthermore, [the business use of the Premises which you represent] does not fall within [Local Law No. 4 of 1974's] definition of "Home Occupation,"⁴¹ an allowed accessory use for single family dwellings in [the AR District table of said Local Law] as it is not a use customarily conducted within a dwelling.⁴²*

The family business and the Company's use of the Basement Office should be considered a Home Occupation under Local Law No. 4 of 1974 because its use to conduct its back-of-office operations (i.e., administrative work) was in connection with "any gainful occupation or profession customarily conducted within a dwelling the residents thereof," clearly secondary to the DiLemme's use of the dwelling for living purposes, and did "not change the structure as a residence." This interpretation is further supported by the 1974 definition for Home Occupations, which goes on to state that "[p]ermissible home occupations include, but are not limited to, the following: ... offices for [certain professions and practices, such as an] architect, engineer, real estate agent or accountant"⁴³ The Applicants submit that it would be unreasonable to find that the use of the Basement Office by the family business and the Company for administrative purposes is not contemplated by this definition.

Local Law No. 4 of 1974 also allowed the parking and storage of commercial vehicles and equipment on the Premises as Accessory Uses, subject to certain limitations. Accordingly, the family business and the Company's use of the Workshop and Premises for the same should not be interpreted as running afoul of the requirement for Home Occupations to be "customarily conducted within a dwelling."

The Applicants also submit that the historical use of the Basement Office seemingly complied with the Home Occupation requirement to "not have more than (1) non-resident employee working on the premises at any one time,"⁴⁴ as the only non-resident employee utilizing it in the 1980s was Nicandro's sister, Antonette.

Lastly, the Basement Office also complies with the dimensional requirements for Home Occupations under the 1974 definition. Per the Town's current Property Card for the Premises, the floor area of the Basement Office is 580 sq. ft. — approximately 28% of the dwelling's total living area — well below the 1974 definition's limit of "not ... more than one half (1/2) of the ground floor area of the

⁴¹ See page 3 of **Attachment L**.

⁴² Id.

⁴³ Id.

⁴⁴ Id.

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selling or its equivalent elsewhere in the dwelling if so used.”⁴⁵

- iv. *The business use of the Premises was illegal when instituted and remains so.*⁴⁶

The Applicants submit that this statement is incorrect for the reasons set forth in these Applications.

- v. *[The Code Compliance Department] has not induced [the business use of the Premises] by issuing permits or certificates for the use.*⁴⁷

Home Occupations and the storage of commercial vehicles, subject to certain limitations, were permitted Accessory Uses in the AR District under Local Law No. 4 of 1974 and therefore may not have required the issuance of permits or certificates.

- vi. *[N]eighbors have stated that the scale of DiLemme & Sons operations at the Premises has increased over time Section 185-19(A)(1) provides in pertinent part: “nor shall any external evidence of such use be increased by any means whatsoever.” Accordingly, even if the business use were determined to be subject to pre-existing, nonconforming use protection, violations of the limitations of Section 185-19(A)(1) would still be at issue.*⁴⁸

The Court of Appeals has held that, as a general rule, a nonconforming use that is in existence when a zoning code is adopted, such as Section 185-19A(1), is constitutionally protected and will be permitted to continue under the doctrine of vested rights.⁴⁹ New York case law also provides that subsequent ordinances cannot destroy vested rights and their protection of legal nonconforming uses.⁵⁰ Accordingly, the Applicants submit that any alleged increase(s) of the Company’s operations at the Premises are insufficient to extinguish any vested rights and protections afforded to it.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id., page 4.

⁴⁹ *E.g., Ellington Constr. Corp. v. Zoning Bd. of Appeals*, 77 N.Y.2d 114, 118-19, 122 (1990) (“[t]he doctrine of vested rights has generally been described as an application of the constitutionally based common-law rule protecting nonconforming uses”).

⁵⁰ *E.g., Incorporated Village of North Hornell v. Rauber*, 181 Misc. 546, 550 (Sup. Ct. Steuben Cty. 1943) (citing Appellate authority to support its decision, the Court held that the defendant “had a vested property right, which the Village Board recognized, to maintain and operate his sawmill as a pre-existing use which could not be destroyed by any subsequent zoning ordinance”).

II. IN THE ALTERNATIVE, THE APPLICANTS REQUEST AREA VARIANCES TO PERMIT THE COMPANY'S CONTINUED USE OF THE PREMISES:

As set forth above, it is the Applicants' position that no Area Variances are required, as the Applicants' use of the Premises is legally nonconforming. However, to the extent this Board disagrees that the Company's use of the Premises is a legal nonconforming use, the Applicants seek area variance relief from the following standards to permit the Company's current use of the premises:

- Section 185-48.6C ("Home Occupations"), which limits the number of nonresident employees on the premises at any time to one (1) employee whose work activities shall be confined to a space within the dwelling (the "Employee Variance"); and
- Section 185-13E(2) ("Off-street parking of commercial ... vehicles in all residential districts"), which limits the number of commercial vehicles⁵¹ having a gross vehicle weight (GVW) of not more than 16,500 pounds, operated by an occupant of the principal building, and not contained in a garage or carport, to one (1) such vehicle (the "Commercial Vehicle Variance" and collectively, the "Requested Area Variances").

The Company's primary operations, masonry and concrete work, take place off-site at jobs throughout Orange County and Hudson Valley. Accordingly, the Commercial Vehicle Variance seeks to permit the Company to store its vehicles in the Workshop and Parking Area when not in use (i.e., overnight), and the Employee Variance seeks to allow the Company's employees to park at the Premises when working off-site.

The Applications comply with the Area Variance criteria established under New York Town Law § 267-b.3 and Section 185-54B(1) of the Town Code.⁵² In undertaking the analysis of the Requested Area Variances, it is noted that the balancing factors in Town Law § 267-b.3 should be employed to weigh and evaluate relevant considerations and that no single factor is outcome-determinative in assessing requests for area variances.⁵³

⁵¹ Defined in Section 185-3 of the Town Code as "[a] vehicle with commercial license plates and commercial advertising on its sides, roof, hood, trunk or tailgate and used for business purposes." (Added September 23, 1998, by Local Law No. 10 of 1998).

⁵² The Applicants submit that the foregoing reasons also satisfy the criteria under Section 185-54B(1) of the Town Code to the extent they do not conflict with or are superseded by State law(s). *See* Section 185-55I of the Town Code.

⁵³ *See Church of Jesus Christ of Latter Day Saints v. ZEA of Town/Village of Harrison*, 745 N.Y.S.2d 76 (2d Dep't 2002); *see also Cohen v. Town of Ramapo Bldg., Planning & Zoning Dept.*, 150 A.D.3d 993, 994, 54 N.Y.S.3d 650, 651 (2d Dep't 2017).

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1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.*

The granting of the Requested Area Variances would not cause an undesirable change in the character of the neighborhood or result in a detriment to nearby properties. Aside from three (3) complaints filed over forty (40) plus years, the commercial use of the Premises has not adversely impacted the character of the neighborhood or been a detriment to nearby properties.

The Applicants have and will continue to be good neighbors and citizens, evidenced by the lack of follow-up complaints after undertaking efforts to mitigate the concerns raised in previous complaints, and the Applicants are amenable to discussing additional mitigation measures, such as the installation of additional screening around the perimeter of the Premises encompassing the Workshop and Parking Area. Accordingly, the Applicants submit that granting the Requested Area Variances will not adversely impact the surrounding neighborhood or nearby properties.⁵⁴

2. *Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance.*

The Applicants respectfully submit that the benefit sought by the Requested Area Variances cannot be obtained by methods other than the requested relief. When evaluating this factor, the range of appropriate alternatives is limited by two (2) standards: first, the alternative must still provide the benefit sought by the Applicant; and, second, it must be feasible for the Applicant to pursue.

Read together, this factor and the above limitations illuminate the lack of available alternatives that would obtain the benefits sought by the Applicants. This is because the Requested Area Variances seek to permit the Company's continued use of the Basement Office and the parking and storage of Company vehicles and equipment in the Workshop and Parking Area, all of which are existing improvements of the Premises. Indeed, the only potential alternative appears to be the demolition of the Workshop and replacing it with a larger detached garage, potentially with second-floor storage, but the Company and its employees' use of a larger detached garage would

⁵⁴ See *Lodge Hotel, Inc. v. Town of Erwin Zoning Bd. of Appeals*, 21 Misc.3d 1120(A) *1, *4 (Sup. Ct. Steuben Cty. 2007), *aff'd*, 843 N.Y.S.2d 744 (4th Dep't 2007) ("While the work the Town has put into its plan is commendable, denying area variances based upon what a municipality hopes the neighborhood will be like in some distant future is an impermissible restriction on the use of property not intended by the applicable statute and is contrary to case law. Courts have consistently placed great reliance on the effect that the granting of an area variance would have on the character of the neighborhood, and the analysis has always been to determine whether the plan sought to be implemented by the area variance is out of character with the existing scheme of development").

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be nonetheless restricted by Sections 185-48.6C and 185-13E(2) and therefore a larger garage would not provide the benefit currently sought. Such an alternative design also arguably constitutes a “profound departure” from, or substantially more costly than, the Company’s continued use of the existing improvements on the Premises.⁵⁵

3. *Whether the requested Area Variance is substantial.*

In assessing the substantiality of a requested variance, the analysis is not simply a mathematical calculation. Instead, the overall impact of granting the relief is the appropriate inquiry.⁵⁶ New York courts have concluded that merely looking at the requested area variance’s deviation from applicable zoning requirements is not dispositive.⁵⁷ Additionally, courts have reviewed a municipality’s Comprehensive Plan when analyzing the potential impacts of area variances.⁵⁸ Therefore, rather than merely making a rote calculation of percentage deviation from the Town Code, this Board should consider the community and recognize the 2005 Comprehensive Plan Update in its analysis.⁵⁹

The Applicants submit that the Requested Area Variances are not substantial — they merely seek to permit the Company’s continued use of certain existing improvements on the Premises. Moreover, substantiality is assessed by the impacts of the grant of Requested Area Variances on the neighborhood. As noted previously, the Company has only received three (3) complaints over forty-plus (40+) years and has taken active measures in response to these complaints, which, as evidenced by the lack of follow-up complaints, demonstrates the effectiveness of these measures.

⁵⁵ See *Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison*, 296 A.D.2d 460, 462 (2d Dep’t 2002).

⁵⁶ See *Lodge Hotel v. Town of Erwin Zoning Bd. of Appeals*, 21 Misc.3d 1120(A) *1, *5 (Sup. Ct. Steuben Cty. 2007), *aff’d*, 843 N.Y.S.2d 744 (4th Dep’t 2007) (“[s]ubstantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one”); see also *Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner*, 56 A.D.3d 883, 886 (3d Dep’t 2008) (holding that although the requested area variances were substantial, the Board properly determined they will not have a substantial impact on the community).

⁵⁷ E.g., *Pecoraro v. Bd. of Appeals of Town of Hempstead*, 781 N.Y.S.2d 234 (N.Y. 2004)

⁵⁸ See *Lodge Hotel*, 21 Misc.3d 1120(A) at *5.

⁵⁹ *Aydelott v. Town of Bedford Zoning Bd. of Appeals*, N.Y.L.J. June 25, 2003, p. 21, col. 4 (Sup. Ct. Westchester Co. 2003) (“consideration of the percentage alone, taken in a vacuum, is not an adequate indicator of the substantiality.... [A] large deviation can have little or no impact depending on the circumstances of the variance application.”); see also *Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner*, 56 A.D.3d 883, 886, (3d Dep’t 2008) (although the requested variances were substantial, the Zoning Board of Appeals properly determined the area variances will not have a substantial impact on the community).

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Page 14

As a result, the Applicants respectfully submit that the Requested Area Variances will not have a substantial impact given the Company's long-standing use of the Premises and the conformance of the requested relief with the 2005 Comprehensive Plan Update.

4. *Whether the proposed Area Variance will have an adverse effect or impact on the physical or environmental considerations in the neighborhood or district.*

The granting of the Requested Area Variances will not adversely affect or impact the physical or environmental conditions in the neighborhood and surrounding community because they do not seek to increase the intensity of the existing use, propose new disturbance or improvements, or involve impacts on regulated environmental features or protected habitats. The Company's use of the Premises will also not be expanded by granting the Requested Area Variances, and the granting of said Variances would only result in the Company and its employees being allowed to park vehicles in the Workshop and the Parking Area, as well as use the Basement Office. The Applicants are also willing to discuss the installation of additional screening around the perimeter of the Premises encompassing the Workshop and Parking Area.

Accordingly, the requested variance relief constitutes an Unlisted Action pursuant to the New York State Environmental Quality Review Act ("SEQRA"). *See* 6 NYCRR §§ 617.2(al), 617.6(a)(3), and 617.7(a)(2). In further support of its position, the Applicants have included with this submission a Short Environmental Assessment Form ("SEAF").⁶⁰

5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.*

The Applicants' need for the Requested Area Variances was not self-created as they have merely continued the Company's long-time use of the existing improvements on the Premises. Moreover, as noted above, a question of self-creation is not determinative for requests for Area variances.⁶¹

The Applicants also submit that granting the Requested Area Variances would be in furtherance of the current 2005 Town Comprehensive Plan Update, specifically the Opportunities for Economic Development noted in Section 3.C.14.⁶² Permitting the Company to continue its use of

⁶⁰ *See* **Attachment C**.

⁶¹ *See Millpond Management, Inc. v. Town of Ulster Zoning Board of Appeals*, 42 A.D.3d 804, 805 (3d Dep't 2007).

⁶² Refer to Page III-45 of the Comprehensive Plan Update, Town of Newburgh, New York, dated October 2005.

the Premises will allow it to continue to provide “new opportunities to existing industries,” which is expressly encouraged in the 2005 Plan Update.⁶³ Similarly, the Town would promote the creation of higher-wage jobs in the construction industry by granting the Requested Area Variances and supporting the Company’s employment of “local labor,” as also encouraged in the 2005 Plan Update.⁶⁴

Accordingly, it is submitted that approval of the Requested Area Variances will not result in a change in the character or welfare of the community.

III. IN THE SECOND ALTERNATIVE, A REQUEST FOR A USE VARIANCE:

In the second alternative, the Applicants request the issuance of a Use Variance to permit the Company’s long-established use of the Premises, specifically the Basement Office, and the parking and storage of vehicles and equipment in the Workshop and Parking Area. As noted below, this request complies with the relevant criteria listed under Town Law § 267-b2(b) and Section 185-54B(1) of the Town Code.⁶⁵

1. *The Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.*

If upheld, the Determination of the Code Compliance Supervisor will prohibit the Company’s existing use of the Premises — and with it, any income generated from the same — representing a significant financial burden for the Applicants. We understand that the Applicants’ loss of income tied to the legal nonconforming use of the Premises could not be made up by merely maintaining the existing residence and other improvements thereon, which is one of the *only* uses available for the Premises under the current Table of Use and Bulk Requirements for the AR District due to the physical characteristics of the Premises.⁶⁶

Accordingly, the Applicants have been working to retain an economic consultant to provide additional information in support of this point, illustrating further that the Applicants cannot realize a reasonable return and showing that the lack of return is substantial.⁶⁷

⁶³ Id.

⁶⁴ Id.

⁶⁵ The Applicants submit that the foregoing reasons also satisfy the criteria under Section 185-54B(1) of the Town Code to the extent they do not conflict with or are superseded by State law(s). See Section 185-55I of the Town Code.

⁶⁶ See Attachment 6 of Chapter 185 of the Town Code (AR District – Schedule 2).

⁶⁷ Note: Additional support for this economic analysis will be provided to the ZBA for further consideration.

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Page 16

2. *The hardship is unique and does not apply to a substantial portion of the district or neighborhood.*

The hardship faced by the Applicants is unique due to the Company's long-standing use of the Premises and the lack of similar commercial uses on nearby properties within the AR District. Likewise, neither a substantial portion of the district nor the neighborhood have similar Home occupations. The present situation is also unique because it was caused by the Code Compliance Supervisor's Determination, not by any acts of the Applicants.

Further, the Premises itself is uniquely situated, with frontages on both on State Route 300 and Strawridge Road. Its access drive on Strawridge Road is approximately 675 feet from State Route 300, making it ideally situated for the Company and its employees to travel to off-site jobs.

3. *The variance will not alter the essential character of the neighborhood.*

As noted previously in this letter, granting the Requested Use Variance would allow the Company's long-standing use of certain improvements on the Premises for commercial purposes, which have not altered the character of the neighborhood over the past forty (40) plus years. The Company's limited use of the existing improvements on the Premises (Basement Office, Workshop and Parking Area), and the low-intensity nature of the use (e.g., vehicle parking), also supports the position that approving the Requested Use Variance will not affect the character of the neighborhood. The Company's outdoor activities are also limited to an approximately 20,000 sq. ft. area at the rear of the Premises.

In sum, the Company's limited commercial activities, the low-intensity nature of the activities (i.e., off-street parking and offices), and the small area on which they are conducted (approximately one-half (0.5) acres) support the finding that the Requested Use Variance will not alter the essential character of the neighborhood if granted.

4. *The hardship has not been self-created.*

The Applicants' hardship was not self-created; the Applicants have merely continued to use the Premises as it has been since the 1980s. As detailed above, the Applicants have also faced hardships in the form of external market forces and the ever-changing economic climate (e.g., Great Recession, COVID-19 Pandemic), which have not only made it harder for family-owned businesses to survive, but have also prevented the Applicants from developing and relocating to the New Road Property.

The present hardship is also the direct result of the Determination by the Code Compliance Supervisor and changes to the zoning regulations over the last forty (40) years, not from the acts

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of the Applicants. Lastly, this is the minimum variance relief necessary and adequate to address the hardship facing the Applicants while preserving the character of the neighborhood, in compliance with Town Law § 267-b2(b) and Section 185-54B(1) of the Town Code.

CONCLUSION AND LIST OF ENCLOSURES:

For the reasons set forth above, and as they may be amended or supplemented following the Applicants' receipt of the Historical Zoning Codes sought in its FOIL Request, the Applicants respectfully request that this Board find the Company's commercial use of the Premises may continue as a legal nonconforming use subject to the protections of Section 185-19 of the Town Code. In the alternative, should this Board determine that some or all of the Company's use of the Premises is not legally nonconforming, the Applicants respectfully request area variances that would permit the Company's continued use of the Basement Office, Workshop, and Parking Area. As a further alternative, the Applicants request a Use Variance to permit the Company's commercial use of the Premises.

It is also noted that the Applications should be classified as Unlisted Actions under SEQRA because they are not deemed Type II actions under 6 NYCRR § 617.5(c) or Section 100-12 of the Town Code, nor are they deemed Type I actions under 6 NYCRR § 617.4 or Section 100-11 of the Town Code.

DOCUMENTATION IN SUPPORT OF THE APPLICATIONS:

In support of the Applicants' submission, please find enclosed copies of the following documents:⁶⁸

Attachment A: Photographs of the Premises;

Attachment B: Zoning Board of Appeals Application Form and Proxy Statement signed by Nick DiLemme and Jennifer McHugh DiLemme before a Notary Public;⁶⁹

Attachment C: Short Environmental Assessment Form;⁷⁰

Attachment D: List of property owners within five-hundred feet (500') of the Premises prepared by the Town of Newburgh Assessor, dated December 15, 2025;

Attachment E: Certified Deed Conveying the Premises from Francesca and Nicandro

⁶⁸ Originals or Certified Copies have been provided when required.

⁶⁹ The original Application Form and Proxy Statement signed by Jennifer McHugh DiLemme before a Notary Public will be submitted today under separate cover.

⁷⁰ The original signatures for the SEAF will be submitted today under separate cover.

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Page 18

DiLemme to Jennifer McHugh and Nick DiLemme on March 2, 2004, as recorded in Liber 11405, Page 1587 of the Orange County Land Records;

Attachment F: Certified Certificate of Incorporation of Di Lemme & Sons, Inc., as filed with the New York State Department of State on April 6, 1987;

Attachment G: Certified April 1992 Biennial Statement of Di Lemme & Sons, Inc., as filed with the New York State Department of State on November 4, 1992;

Attachment H: Prior postcard mailer for DiLemme & Sons, date unknown;

Attachment I: Service of Appearance Ticket with Information and Notice of Inspection with Photographs to Nick DiLemme, prepared by Cherl Churney, Rider Weiner & Frankel P.C., dated June 2, 2025, along with the following enclosures:

- Appearance Ticket Complaint No. 23-0267, dated June 2, 2025;
- Introduction of James Campbell, Code Enforcement Official for the Town of Newburgh, dated June 2, 2025;
- Notice of Violation and Order to Remedy, dated September 13, 2024 with proof of mailings;
- Notice of Inspection, dated August 9, 2024;
- Notice of Inspection, dated September 11, 2024;
- Notice of Inspection, dated May 22, 2025;
- Property Card; and
- Department of State Entity Information.

Attachment J: Letter from Nick DiLemme to Jim Campbell, Town of Newburgh Code Compliance Department regarding the Updated Site Plan for the New Road Property, dated October 22, 2024;

Attachment K: Applicants' Request for Interpretation – Exiting Legal Non-Conforming Use, dated October 3, 2025, and Exhibits attached thereto, including:

- Exhibit A: Deed Conveying the Premises from Nicandro DiLemme to Francesca DiLemme and Nicandro DiLemme on October 2, 1964, as found in Liber 1683 Page 147 of the Orange County Land Records;
- Exhibit B: Conveying the Premises from Francesca and Nicandro DiLemme to Jennifer McHugh and Nick DiLemme on March 2,

December 26, 2025
Page 19

2004, as found in Liber 11405 Page 1587 of the Orange County Land Records;

- Exhibit C: Current Property Card for the Premises on file with the Code Compliance Department of the Town of Newburgh, which states “Commercial use off Strawridge, No Reply — Eng & Code, See History (04), Concrete Business” in the Notes;
- Exhibit D: History of DiLemme & Sons from the Corporation and Business Entity Database of the Division of Corporations of the Department of State for New York State, obtained September 29, 2025, reflecting the Company’s incorporation on April 6, 1987;
- Exhibit E: Copy of Complaint No. 3-36 from the Code Enforcement Office of the Town of Newburgh, dated February 25, 2003, with a handwritten note stating, “[i]n business since 1980” in reference to DiLemme & Sons;
- Exhibit F: Building Permit No. 0-5732 issued by the Town of Newburgh for the construction of the Workshop, dated June 12, 1984, closed out September 10, 1984;
- Exhibit G: Property Report for the Premises from Orange County Image Mate Online, obtained September 29, 2025, stating that its Property Class is “480 — Mult-use bld”;
- Exhibit H: Letter from Michael J. Fogarty, Sole Assessor of the Town of Newburgh, County of Orange, dated March 2007, indicating that the portion of the Premises identified by the Tax ID 3-1-91 (1.0-acre parcel) was assessed under the Property Class of “480 — Multi. Use / Multi. Purpose” as of the Warrant Date of December 28, 2006; and
- Exhibit I: Excerpts of the Town’s Zoning Ordinance as found in Chapter 185 of the Town Code of the Town of Newburgh, obtained from eCode on October 1, 2025.

Attachment L: Town of Newburgh Letter of Determination, dated October 28, 2025, and Exhibits attached thereto, including:

- Exhibit A: Zoning Map; and
- Exhibit B: Municipal Code.

Attachment M: Emails between Riddar Nget and Town FOIL Officers regarding the FOIL Request dated September 25, 2025;



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- Attachment N:** Approved Site Plan by the Town of Newburgh Planning Board, prepared by Vincent J. Doce Associates, dated September 22, 2008;
- Attachment O:** Site Plan prepared by Darren C. Doce, PE, dated November 21, 2024;
- Attachment P:** Department of Environmental Conservation Letter of Positive Jurisdiction – Freshwater Wetlands, dated October 10, 2025; and
- Attachment Q:** Wetlands Delineation Survey, prepared by Miles Land Surveying, dated December 11, 2025.

Please also find enclosed proof of payment of the applicable fees for the Applications.

In the meantime, should this Board or Town Staff have any questions or comments with regard to the foregoing, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'T.M. Palmer', with a long horizontal flourish extending to the right.

Taylor M. Palmer

Enclosures

cc: Clients
David Donovan, Esq., Attorney to the Zoning Board of Appeals
Gerald Canfield, Code Compliance Supervisor, Town Code Compliance Department
Michael Matsler, Esq., Rider, Weiner & Frankel, P.C.
Daniel Conant, Esq., Cuddy & Feder LLP

Exhibit A: Images of the Premises and Surrounding Area

Orange County Parcel Access Viewer Image: 2201 State Route 300

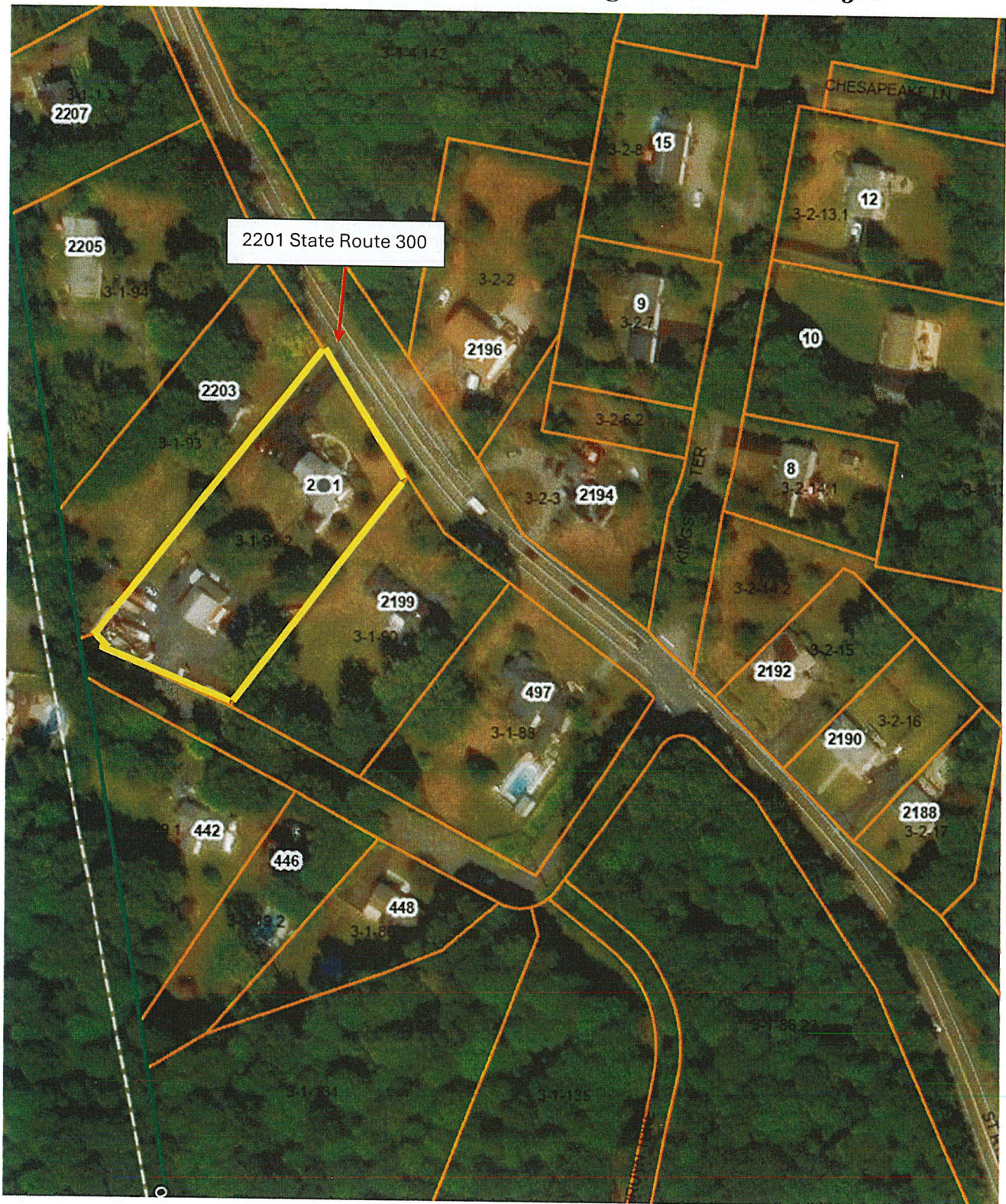


Exhibit A: Images of the Premises and Surrounding Area (Cont.)

Google Maps Aerial Image of the Premises and Surrounding Area and Neighboring



Exhibit A: Images of the Premises and Surrounding Area (Cont.)

Excerpt of Town of Newburgh Zoning Map – AR District

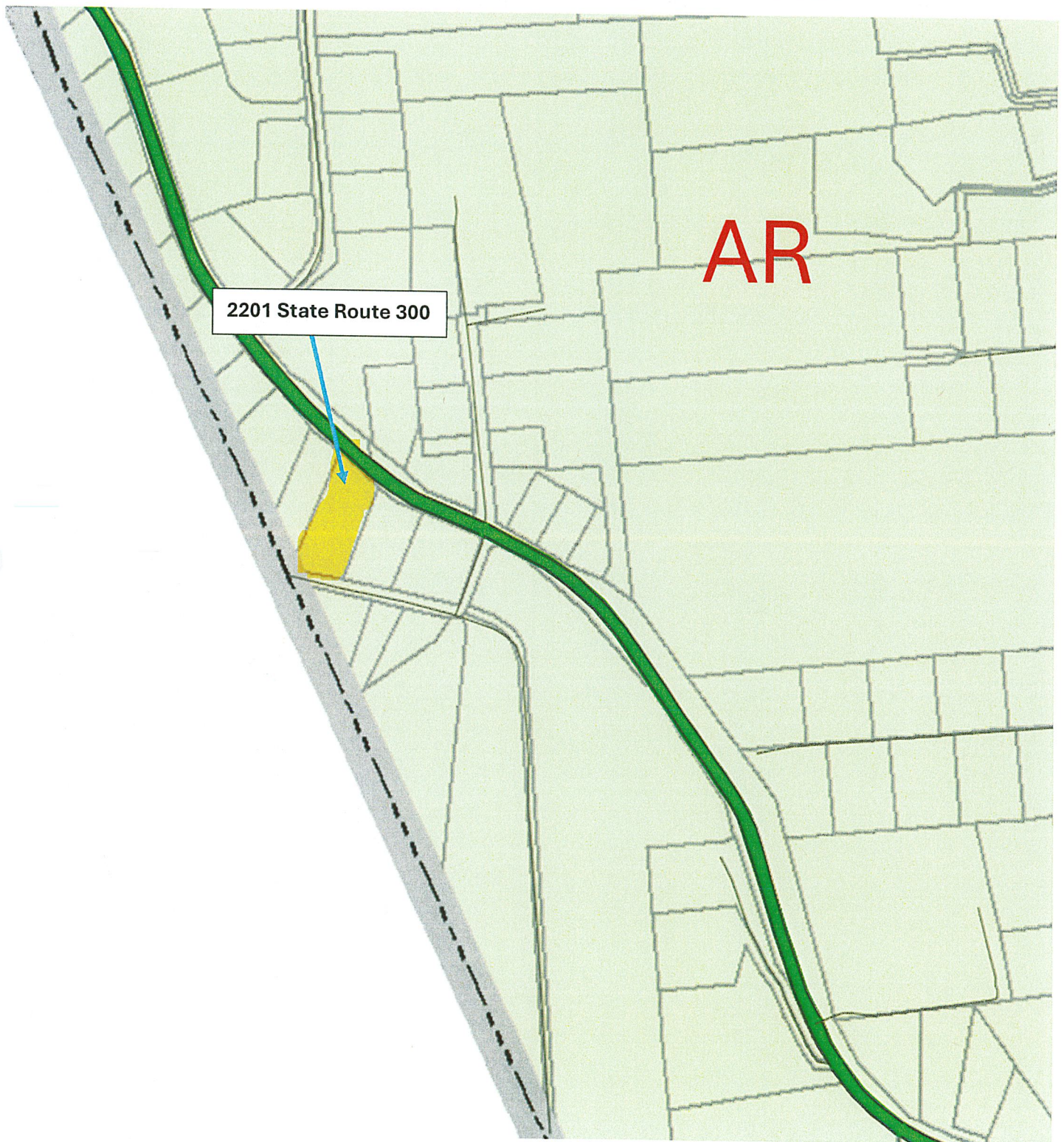


Exhibit A: Images of the Premises and Surrounding Area (Cont.)

Google Maps Street View – Front of Premises:



Exhibit A: Images of the Premises and Surrounding Area (Cont.)

Google Maps Street View – State Route 300 looking East Toward Premises:



Google Maps Street View – State Route 300 looking West Toward Premises:





TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS
21 Hudson Valley Professional Plaza
Newburgh, NY 12550

OFFICE OF ZONING BOARD
DARRIN SCALZO, CHAIRMAN
SIOBHAN JABLESNIK, SECRETARY

TELEPHONE 845-566-4901

FAX LINE 845-564-7802

APPLICATION

DATED: 12/19/25

TO: **THE ZONING BOARD OF APPEALS**
THE TOWN OF NEWBURGH, NEW YORK 12550

I (WE) Nick DiLemme, Jennifer McHugh DiLemme, and Di Lemme & Sons, Inc., PRESENTLY
RESIDING AT NUMBER 2201 State Route 300, Wallkill, Town of Newburgh, NY 12589

TELEPHONE NUMBER (845) 564-2195

HEREBY MAKE APPLICATION TO THE ZONING BOARD OF APPEALS FOR THE FOLLOWING:

- ☒ USE VARIANCE
- ☒ AREA VARIANCE (S)
- ☒ (Appeal from Determination of
Code Compliance Supervisor) INTERPRETATION OF THE ORDINANCE
- SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:

3-1-91.2 (TAX MAP DESIGNATION)

2201 State Route 300 (STREET ADDRESS)

Agricultural Residence (AR) (ZONING DISTRICT)

2. PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUB-SECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).
185-19A (Nonconforming use); 185-54B (Variances), 185-48.6C (Home occupations),
185-12E(2) (Off-street parking of comm. Vehicles in res. Districts), AR District –
Schedule 2, Ch. 185 Att. 6 (Table of Use and Bulk Requirements)

3. IF VARIANCE TO THE ZONING LAW IS REQUESTED:

- a) APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OR BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED:
See attached Determination Letter from the Code Compliance Supervisor
- b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED:

4. DESCRIPTION OF VARIANCE SOUGHT: Area Variance relief from Sections 185-48.6C and 185-13E(2) to permit additional non-resident employees at Home occupation and parking/storage of additional commercial vehicles on the Premises or a Use variance to allow for the same. Please refer to the attached narrative.

5. IF A USE VARIANCE IS REQUESTED: STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT:

- a) UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE: If upheld, the Determination of the Code Compliance Supervisor will prohibit the family business from continuing to use the Premises, a significant financial burden. Please see attached narrative.
(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)
- b) THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE: The hardship faced by the Applicants is unique as it involves the family business's use of existing improvements on the Premises. Please see attached narrative.
- c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE: The requested variance relief would not alter the essential character of the neighborhood; the family business has used the Premises for over four (4) decades. Please see attached narrative
- d) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE: The requested variance relief is necessary due to the Determination of the Code Compliance Supervisor; the Applicants have continued to use the Premises in the same manor for over four (4) decades. Please see attached narrative.

6. IF AN AREA VARIANCE IS REQUESTED:

- a) THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE:

The requested variance relief seeks to permit the family business's continued use of certain improvements on the Premises, as it has done without changing the character of the neighborhood or to the detriment of nearby properties for over forty (40) years. Please see attached narrative.

- b) THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE:

The benefit sought would allow the family business to continue using certain existing improvements on the Premises. Accordingly, there are no feasible alternatives other than possibly demolishing the existing Workshop and replacing it with a larger detached garage, which is not feasible. Please see attached narrative.

- c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

It simply seeks to permit the family business's long-standing use of certain existing improvements on the Premises, specifically the Basement Office, Workshop, and Parking Area. Please see attached narrative.

- d) THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE:

The requested variance relief does not propose any new disturbance or improvements, only to permit the family business's long-standing use of certain existing improvements on the Premises. Please see attached narrative.

- e) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

The requested variance relief is necessary due to the Determination of the Code Compliance Supervisor; the Applicants have continued to use the Premises in the same manner for over four (4) decades. Please see attached narrative.

7. ADDITIONAL REASONS (IF PERTINENT):

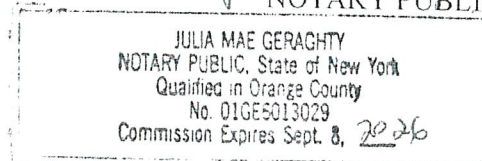
Nick Scileme

PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 19th DAY OF December 20 25

Julia Mae Geraghty
NOTARY PUBLIC



NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.

(ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 13 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE NIGHT OF THE MEETING).

(NOTE: BOARD MEMBERS MAKE SITE VISITS TO ALL THE PROPERTIES)

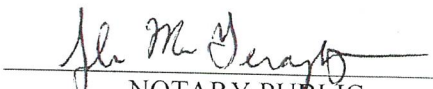
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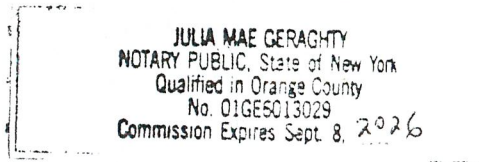
7. ADDITIONAL REASONS (IF PERTINENT):


PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 22nd DAY OF December 20 25


NOTARY PUBLIC



NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.

(ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 13 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE NIGHT OF THE MEETING).

(NOTE: BOARD MEMBERS MAKE SITE VISITS TO ALL THE PROPERTIES)

**TOWN OF NEWBURGH
ZONING BOARD OF APPEALS**

PROXY

Nick DiLemme, President of DiLemme & Sons, Inc., DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 2201 State Route 300, Wallkill, NY 12589

IN THE COUNTY OF Orange AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF 2201 State Route 300
Wallkill, NY 12589, Town of Newburgh

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED Cuddy & Feder LLP
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 12/19/25

Nick DiLemme

OWNER'S SIGNATURE

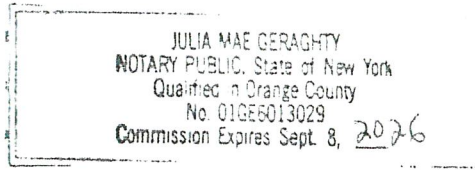
Nick DiLemme

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 19th DAY OF December 2025

Julia Mae Geraghty
NOTARY PUBLIC



RN

**TOWN OF NEWBURGH
ZONING BOARD OF APPEALS**

PROXY

Jennifer Dilemme, DEPOSES AND SAYS THAT
HE/SHE RESIDES AT 2201 State Route 300, Wallkill, NY 12589
IN THE COUNTY OF Orange AND STATE OF New York
AND THAT HE/SHE IS THE OWNER IN FEE OF 2201 State Route 300
Wallkill, NY 12589, Town of Newburgh

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED Cuddy & Feder LLP
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 12/22/25

Jennifer Dilemme

OWNER'S SIGNATURE

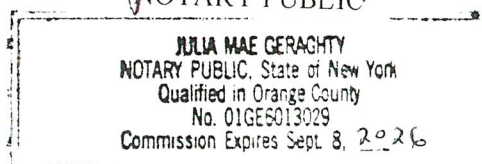
Mark S. Dilemme

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 22nd DAY OF December 2025

Julia Mae Gerachty
NOTARY PUBLIC



ENCLOSURES: **SUBMIT ALL ITEMS TOGETHER**

- * RECEIPT(S) ISSUED BY THE TOWN CLERK
(SEE 1-1-2017 FEE SCHEDULE) (✓)
- BUILDING INSPECTOR'S DISAPPROVAL
OR REFERRAL LETTER FROM PLANNING BOARD (✓)
- PLOT PLAN, ELEVEN (11) COPIES DRAWN
TO SCALE ()
- PLANS, ELEVEN (11) COPIES (IF APPLICABLE) ()
- * DEED OR CERTIFIED COPY THEREOF (✓)
- * ASSESSOR'S LIST OF PROPERTY OWNERS
WITHIN 500 FEET OF PROPERTY (✓)
- FOUR PHOTOGRAPHS TAKEN AT DIFFERENT
ANGLES (✓)
- * ZONING BOARD APPLICATION WITH SHORT
ENVIRONMENTAL ASSESSMENT FORM (✓)
- * PROXY OR STATEMENT FOR REPRESENTATION
THEREOF (✓)
- SEPTIC DESIGN BY P.E. (IF APPLICABLE) ()
- PERCULATION TEST (IF APPLICABLE) ()

*** ORIGINALS ARE REQUIRED.**

NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.

(ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED (IN PERSON) TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 13 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE NIGHT OF THE MEETING. PLEASE CALL AHEAD TO MAKE SURE SOMEONE IS HERE TO ACCEPT YOUR APPLICATION).

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			
Name of Action or Project: Di Lemme & Sons, Inc.			
Project Location (describe, and attach a location map): 2201 State Route 300, Wallkill, Town of Newburgh, New York 12589 (Tax ID: 3-1-91.2)			
Brief Description of Proposed Action: Application to the Town of Newburgh Zoning Board of Appeals appealing from a determination of the Code Compliance Supervisor and seeking a determination from the Board that Di Lemme & Sons, Inc.'s use of existing improvements at the above Project Location may be continued as a legal-nonconforming commercial use. In the alternative, applications requesting area variances or a use variance to permit the same.			
Name of Applicant or Sponsor: Nick DiLemme, Principal, DiLemme & Sons, Inc.		Telephone: 845-564-2195 E-Mail: nick@dilemmeconcrete.com	
Address: PO Box 10355			
City/PO: Newburgh		State: NY	Zip Code: 12552
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: Twn. Newburgh Zoning Board of Appeals: request for a determination, and, in the alternative, area variances or a use variance			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? 1.20 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? 1.20 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 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	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

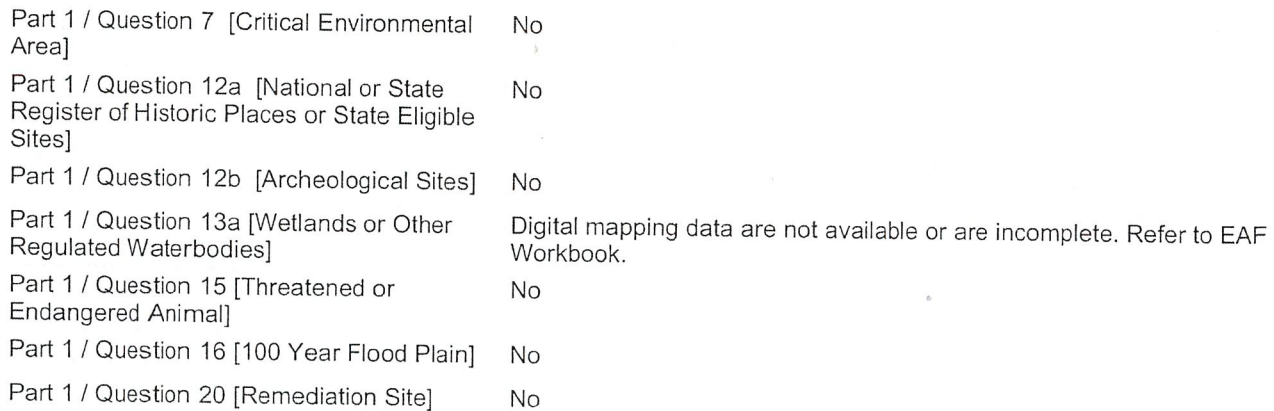


14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> 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 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: Nick DiLemme, DiLemme & Sons, Inc. Date: 12/26/25		
Signature: <u>Nick DiLemme</u> Title: President		

PRINT FORM

WD

Monday, December 15, 2025 10:45 AM



HN 12/15/25

SEC 3 BLK 1 LOT 91.2

334600 3-1-1.1
Coppola, Nicholas E
2211 Route 300
Wallkill NY, 12589

334600 3-1-89.2
Fitzsimmons, Jason
446 Strawridge Rd
Wallkill NY, 12589

334600 3-2-7
Carfizzi IRT, Anthony & Susan
9 Kings Hill Ter
Wallkill NY, 12589

334600 3-1-1.3
Caro, Cindy
2207 Route 300
Wallkill NY, 12589

334600 3-1-90
Diaz, Steven
2199 Route 300
Wallkill NY, 12589

334600 3-2-8
Pope, James L
15 Kings Hill Ter
Wallkill NY, 12589

334600 3-1-4.141
Thompson Living Trust, Samuel Alexander Jr
11 Highgrove Dr
Washingtonville NY, 10992

334600 3-1-91.2
DiLemme, Nicky G
P.O. Box 10355
Newburgh NY, 12550

334600 3-2-13.1
Aviles, Jennifer M
12 Kings Hill Ter
Wallkill NY, 12589

334600 3-1-4.142
Kyle, Christopher A
6 Fox Hill Rd
Wallkill NY, 12589

334600 3-1-93
Sanchez, Jose
2203 Route 300
Wallkill NY, 12589

334600 3-2-13.2
Forrey, Braden M
10 Kings Hill Ter
Wallkill NY, 12589

334600 3-1-5.12
Frankel DeOliveira ULWT, Jodi
23 Kings Hill Ter
Wallkill NY, 12589

334600 3-1-94
Stewart, Ifetayo K
2205 Route 300
Wallkill NY, 12589

334600 3-2-14.1
D'Addio, Beth A
8 Kings Hill Ter
Wallkill NY, 12589

334600 3-1-86.1
Litz, James C
448 Strawridge Rd
Wallkill NY, 12589

334600 3-1-134
Levine, Rita
P.O. Box 839
Wallkill NY, 12589

334600 3-2-14.2
Ortiz, Patrick
2192 Route 300
Wallkill NY, 12589

334600 3-1-86.21
Carfizzi, Joseph A Jr
107 Bailey Rd
Montgomery NY, 12549

334600 3-1-135
Carfizzi, Joseph A Jr.
107 BAiley Rd
Montgomery NY, 12549

334600 3-2-15
Ortiz, Patrick
2192 Route 300
Wallkill NY, 12589

334600 3-1-86.23
The, Friends Of Kings Hil
361 Strawridge Rd
Wallkill NY, 12589

334600 3-2-2
Lopez, Hector
2196 Route 300
Wallkill NY, 12589

334600 3-2-16
Kuzda, Peter M
2190 Route 300
Wallkill NY, 12589

334600 3-1-88
Aller Living Trust, Dwight
497 Strawridge Rd
Wallkill NY, 12589

334600 3-2-3
Rodriguez, Daniel
1817 George St
Ridgewood NY, 11385

334600 107-1-14
Carmona, Maria F
3 Fox Hill Rd
Wallkill NY, 12589

334600 3-1-89.1
Carollo, Danielle
442 Strawridge Rd
Wallkill NY, 12589

334600 3-2-6.2
Hopper, Earl Russell
10 Grand St
Newburgh NY, 12550

----- Forwarded message -----

From: **Nget, Riddar** <RNget@cuddyfeder.com>

Date: Mon, Dec 15, 2025 at 10:05 AM

Subject: 500' Radius List Request

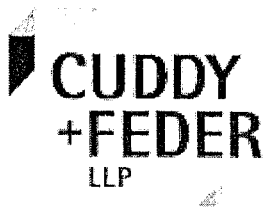
To: Assessor@townofnewburgh.org <Assessor@townofnewburgh.org>

Good morning Molly,

Can I please request a 500' radius list for the property located at 2201 State Route 300, Tax ID 3-1-91.2?
This is for a Zoning Board of Appeals submission our office will be filing.

Thank you!

Riddar



Riddar Nget

Paralegal

Cuddy & Feder LLP

445 Hamilton Avenue, 14th Floor

White Plains, New York 10601

T 914 761 1300 | F 914 761 5372

RNget@cuddyfeder.com

www.cuddyfeder.com

NOTE: The information in this e-mail message and any attachments thereto have been sent by an attorney or his/her agent, and is or are intended to be confidential and for the use of only the individual or entity named above. The information may be protected by attorney/client privilege, work product immunity or other legal rules. If the reader of this message and any attachments thereto is not the intended recipient, you are notified that retention, dissemination, distribution or copying of this e-mail message and any attachments is strictly prohibited. Although this e-mail message (and any attachments) is believed to be free of any virus or other defect that might affect any computer system into which it is received and opened, the intended recipient is responsible to ensure that it is virus free. The sender and Cuddy & Feder LLP shall not have any responsibility for any loss occasioned in any manner by the receipt and use of this e-mail message and any attachments.

Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties.

--

Molly A. Carhart
Sole Assessor

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

TYPE IN BLACK INK:
NAME(S) OF PARTY(S) TO DOCUMENT

NIKANDRO DILEMME
FRANCESCA DILEMME

TO

NICKY G. DILEMME
JENNIFER M. McHUGH

SECTION 3 BLOCK 1 LOT 91-92

RECORD AND RETURN TO:
(name and address)

NICKY G. DILEMME
2201 RT 300
WAUKEGUS NY 12589



THIS IS PAGE ONE OF THE RECORDING

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED ☒ MORTGAGE ☐ SATISFACTION ☐ ASSIGNMENT ☐ OTHER ☐

PROPERTY LOCATION

2089 BLOOMING GROVE (TN)
2001 WASHINGTONVILLE (VLG)
2289 CHESTER (TN)
2201 CHESTER (VLG)
2489 CORNWALL (TN)
2401 CORNWALL (VLG)
2600 CRAWFORD (TN)
2800 DEERPARK (TN)
3089 GOSHEN (TN)
3001 GOSHEN (VLG)
3003 FLORIDA (VLG)
3005 CHESTER (VLG)
3200 GREENVILLE (TN)
3489 HAMPTONBURGH (TN)
3401 MAYBROOK (VLG)
3689 HIGHLANDS (TN)
3601 HIGHLAND FALLS (VLG)
3889 MINISINK (TN)
3801 UNIONVILLE (VLG)
4089 MONROE (TN)
4001 MONROE (VLG)
4003 HARRIMAN (VLG)
4005 KIRYAS JOEL (VLG)

4289 MONTGOMERY (TN)
4201 MAYBROOK (VLG)
4203 MONTGOMERY (VLG)
4205 WALDEN (VLG)
4489 MOUNT HOPE (TN)
4401 OTISVILLE (VLG)
4600 NEWBURGH (TN)
4800 NEW WINDSOR (TN)
5089 TUXEDO (TN)
5001 TUXEDO PARK (VLG)
5200 WALLKILL (TN)
5489 WARWICK (TN)
5401 FLORIDA (VLG)
5403 GREENWOOD LAKE (VLG)
5405 WARWICK (VLG)
5600 WAWAYANDA (TN)
5889 WOODBURY (TN)
5801 HARRIMAN (VLG)

CITIES

0900 MIDDLETOWN
1100 NEWBURGH
1300 PORT JERVIS
9999 HOLD

NO PAGES 4 CROSS REF.
CERT. COPY ☐ ADD'L X-REF.
MAP# ☐ PGS. ☐

PAYMENT TYPE: CHECK ☒
CASH ☐
CHARGE ☐
NO FEE ☐

Taxable
CONSIDERATION \$ 250,000.00
TAX EXEMPT ☐

Taxable
MORTGAGE AMT. \$ ☐
DATE ☐

MORTGAGE TAX TYPE:

☐ (A) COMMERCIAL/FULL 1%
☐ (B) 1 OR 2 FAMILY
☐ (C) UNDER \$10,000
☐ (E) EXEMPT
☐ (F) 3 TO 6 UNITS
☐ (I) NAT.PERSON/CR. UNION
☐ (J) NAT.PER-CR.UN/1 OR 2
☐ (K) CONDO

Donna L. Benson
DONNA L. BENSON
ORANGE COUNTY CLERK

RECEIVED FROM: Hill - n - Dale

STATE OF NEW YORK, COUNTY OF ORANGE ss:

I, Kelly A. Eskew, County Clerk and Clerk of the Supreme and County Courts, Orange County, do hereby certify that I have compared this copy with the original thereof filed or recorded in my office 3/2/2004 and the same is a correct transcript thereof in witness whereof, I have hereunto set my hand and affixed my official seal 12/19/2025.

Kelly A. Eskew

County Clerk & Clerk of the Supreme County Courts
Orange County

RECORDED/FILED
03/02/2004 13:27:40
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY

FILE # 20040028927
DEED / BK 11405 PG 1587
RECORDING FEES \$2.00
TTX# 008522 TRANS TAX 1,000.
Receipt#231995 Linda



Bargain and Sale Deed, with Covenant against Grantor's Acts -- Individual

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

DEED made this 26th day of FEBRUARY 2004 BETWEEN:

NICANDRO DILEMME & FRANCESCA DILEMME, his wife, residing
at 16 Hidden View Drive, Newburgh, NY 12550
party of the first part, and

NICKY G. DILEMME & JENNIFER M. McHUGH, residing at 2201
Route 300, Wallkill, NY 12589, as Joint Tenants with the Right of
Survivorship
party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN DOLLARS
lawful money of the United States and other valuable consideration paid by the party of
the second part, does hereby grant and release unto the party of the second part, the
heirs or successors and assigns of the party of the second part forever,

ALL that land with the buildings and improvements thereon situate commonly known as
2201 Route 300, Wallkill, NY 12589, identified on the Town of Newburgh tax map as
section 3 block 1 lot 91 & 92, and being more particularly described in an attachment
marked "SCHEDULE A".

SUBJECT to all agreements, covenants, restrictions, conditions, and easements of
record.

BEING and intended to be the same premises conveyed to the grantor by two (2)
deeds, as follows: by deed from Nicandro DiLemme dated 10/2/64 and recorded
10/5/64 in Liber 1683 cp 147, and by deed from Louis Carfizzi and Lillian Carfizzi dated
5/18/65 and recorded 5/20/65 in Liber 1713 cp 33.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to
any streets and roads abutting the above described premises to the center lines thereof,
TOGETHER with the appurtenances and all the estate and rights of the party of the first
part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the parties of the second
part, the heirs or successors and assigns of the parties of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or
suffered anything whereby the said premises have been encumbered in any way
whatever, except as aforesaid.

HILL-N-DALE ABSTRACTERS, INC.

20 SCOTCHTOWN AVENUE

P.O. BOX 547

GOSHEN, NEW YORK 10924

(845) 294-5110

FAX (845) 294-9581

Schedule A Description

Title Number HN 33438

Policy Number: 5412-3296527

Page 1

PARCEL I

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange, State of New York, described as follows:

BEGINNING at a point in the middle of Bruyn Turnpike or Strawridge Road at corner of lands conveyed to one (Levine) and being North 49 degrees 54' West 355.8 feet from a marked stone at the corner of the road; thence along the middle of the road North 49 degrees 54' West 130 feet to a point; thence leaving the middle of the road and thru the lands of Louis Carfizzi North 50 degrees 24' East 14.6 feet to an iron pipe set near the side of the road; thence North 50 degrees 24' East, 366.7 feet to an iron pipe set in a stone wall along the side of the North Plank Road; thence along the same South 22 degrees 10' East, 130 feet to an iron pipe at corner of lands conveyed to Levine; thence along his lands South 49 degrees 42' West 291.4 feet to an iron pipe set near the side of the Strawridge Road; thence continuing on the same course 27.8 feet to the place of beginning, CONTAINING one acre.

THE bearings herein are referred to the magnetic needle as it pointed in 1948. Surveyed in 1963.

PARCEL II

ALL that certain piece, parcel or lot of land, situate, lying and being in the Town of Newburgh, County of Orange and State of New York, bounded and described as follows:

BEGINNING at a point in the middle of Bruyn Turnpike at corner of lands conveyed by grantors to grantee by deed dated October 16, 1963; thence along the middle of Bruyn Turnpike North 49 degrees 54' West 24.4 feet; thence leaving the turnpike and thru the lands of Louis Carfizzi, North 50 degrees 26' East 24.6 feet to an iron bar set near the side of the road; thence North 50 degrees 26' East, 368.6 feet to an iron pipe set in the stone wall along the side of the North Plank Road; thence along the same South 22 degrees 10' East, 25 feet to an iron pipe at corner of lands now of DiLemme; thence along the same South 50 degrees 24' West 366.7 feet to an iron pipe near the side of Bruyn Turnpike; thence continuing on the same course 14.6 feet to the place of beginning, containing 0.21 of an acre more or less, as surveyed in 1965.

AND the party of the first part, in compliance with Section 13 of the New York Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.



NICANDRO DILEMME


FRANCESCA DILEMME

STATE OF NEW YORK)
COUNTY OF ORANGE)

SS:

On the 26th day of FEBRUARY 2004 before me, the undersigned, a Notary Public in and for said State, personally appeared **NICANDRO DILEMME & FRANCESCA DILEMME**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity, and that by his/her/their signature on the instrument, the individual(s), or the person(s) upon behalf of which the individual(s) acted, executed the instrument.



Carl Darrigo, Esq.
Notary Public, State of New York
Qualified in Orange County
Reg. No.: 02DA5069651
My Commission Expires 11/25/2006

**STATE OF NEW YORK
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for DI LEMME & SONS, INC., File Number B480131-3 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on December 22, 2025.

WALTER T. MOSLEY
Secretary of State

Brendan C. Hughes

BRENDAN C. HUGHES
Executive Deputy Secretary of State



Authentication Number: 100009364910 To Verify the authenticity of this document you may access the
Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>

CERTIFICATE OF INCORPORATION

OF

DI LEMME & SONS, INC.

UNDER SECTION 402 OF THE BUSINESS CORPORATION LAW

IT IS HEREBY CERTIFIED THAT:

1. The name of the corporation is:

DI LEMME & SONS, INC.

2. The purpose or purposes for which the corporation is formed as follows, to wit:

480131 To own, operate, manage and do everything normally associated with conducting the business of a masonry contractor.

480131 To engage in any lawful act or activity for which corporations may be formed under the Business Corporation Law. The corporation is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

To own, operate, manage, acquire and deal in property, real and personal, which may be necessary to the conduct of the business.

The corporation shall have all of the powers enumerated in Section 202 of the Business Corporation Law, subject to any limitations provided in the Business Corporation Law or any other statute in the State of New York.

480131 3. The county in which the office of the corporation is to be located in the State of New York is: Orange

480131 4. The aggregate number of shares which the corporation shall have authority to issue is 200 shares, no par value.

5. The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is:

The corporation
Route 300, Box 119
Wallkill, New York 12589

Diane L. Foley
Diane L. Foley
33 Rensselaer Street
Albany, New York 12202

On this 3rd day of April, 1987, before me personally came Diane L. Foley to me known to be the individual described in and who executed the foregoing instrument, and she duly acknowledged to me that she executed the same.

Barbara Kinnear

B480131

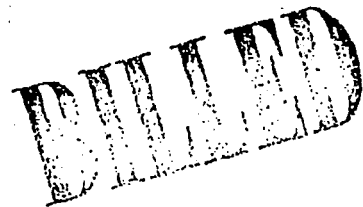
X X L
X X L
X X L
XX L
X X L
X X L
X X LLLLLL

CERTIFICATE OF INCORPORATION

OF

DI LEMME & SONS, INC.

UB4/5



FILED BY:

John A. Lewis, Esq.
42 Wallkill Avenue, P.O. Box 368
Wallkill, New York 12589

RECEIVED
APR 3 11 AM '87

FILED

APR 6 8 31 AM '87

920314

STATE OF NEW YORK
DEPARTMENT OF STATE

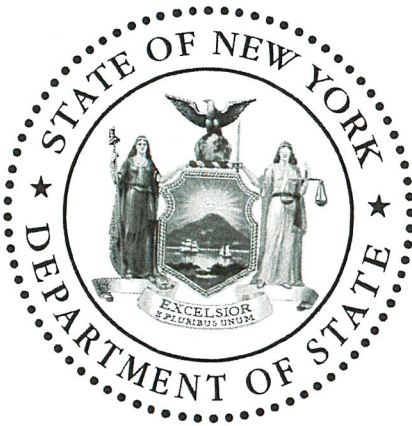
FILED APR 6 1987

AMT. OF CHECK \$ 120
FILING FEE \$ 10.00
TAX \$
COUNTY FEE \$
COPY \$
CERT \$
REFUND \$
SPEC HANDLE \$ 10

Pharange

**STATE OF NEW YORK
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for DI LEMME & SONS, INC., File Number 921104002172 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on December 22, 2025.

WALTER T. MOSLEY
Secretary of State

Brendan C. Hughes

BRENDAN C. HUGHES
Executive Deputy Secretary of State

Authentication Number: 100009364912 To Verify the authenticity of this document you may access the
Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>

NYS DEPARTMENT OF STATE - DIVISION OF CORPORATIONS
Statement of Addresses and Directors, Part A

CORPORATION NAME
 DI LEMME & SONS, INC.

1160191	FILING PERIOD 04/1992	FEE \$50.00
---------	--------------------------	----------------

AR 92110400 2172

1 FARM CORPORATION	<input type="checkbox"/> The corporation is a corporation engaged in the production of crops, livestock, and livestock products on land used in agricultural production (Agriculture and Markets Law Section 301). It is not required to report.		
2 NAME AND BUSINESS ADDRESS OF THE CHAIRMAN OF THE BOARD OF DIRECTORS	NAME	NICANDRO AND FRANCESCA DILEMME	
	ADDRESS	841 RT. 300	
	CITY	WALLKILL	STATE NY ZIP + 4 12589
3 ADDRESS OF THE PRINCIPAL EXECUTIVE OFFICE	NAME	DILEMME & SONS, INC.	
	ADDRESS	841 RT. 300	
	CITY	Wallkill,	STATE NY ZIP + 4 12589
4 SERVICE OF PROCESS ADDRESS	NAME	N/A	
	ADDRESS		
	CITY		STATE ZIP + 4

NYS DEPARTMENT OF STATE - DIVISION OF CORPORATIONS
Statement of Addresses and Directors, Part B

CORPORATION NAME
 DI LEMME & SONS, INC.

1160191	FILING PERIOD 04/1992	FEE \$50.00
---------	--------------------------	----------------

(1) NAME AND BUSINESS ADDRESS OF THE CHAIRMAN OF THE BOARD OF DIRECTORS

NO ADDRESS ON FILE

(2) ADDRESS OF THE PRINCIPAL EXECUTIVE OFFICE

NO ADDRESS ON FILE

(3) SERVICE OF PROCESS ADDRESS

DI LEMME & SONS, INC.
 ROUTE 300
 BOX 119
 WALLKILL NY 12589

MAKE NO MARKS BELOW THIS LINE

(PLEASE SIGN AND DATE ON REVERSE)

DOS-1157 (8/92)

1199204 101160191 305000

IMPORTANT NOTICE

AR 921104002172

A New York Corporation which is no longer conducting business should file a Certificate of Dissolution pursuant to section 1003 of the Business Corporation Law, and a foreign corporation no longer conducting business in New York State should file a Surrender of Authority pursuant to section 1310 or a Termination of Existence pursuant to section 1311 of the Business Corporation Law. An inactive corporation continues to accrue tax liability and possible interest and penalties until formally dissolved, surrendered, or terminated. Questions regarding the filing of these certificates should be directed to the NYS Department of State, Division of Corporations, 162 Washington Avenue, Albany, NY 12231-0001 or by calling 518-473-2492. You are also advised to request Publication 110, "Information and Instructions for Termination of Business Corporations" from the Department of Taxation and Finance. Requests for this publication and questions regarding taxation issues should be sent to the NYS Department of Taxation and Finance, Processing and Revenue Management Division, Dissolution Unit, Building 8, Room 302, W.A. Harriman Campus, Albany, NY 12227.

Filing Period and Penalty - the filing period is the calendar month during which the original certificate of incorporation or application for authority was filed or the effective date that corporate existence began, if stated in the certificate of incorporation. Failure to timely file this statement will be reflected in the department's records as past due or delinquent and may later subject the corporation to a fine of \$250. See section 409 of the Business Corporation Law.

Filing Fee: The statutory filing fee is \$50. It must be paid by cash, certified check, attorney's check, or postal money order made payable to the "Department of State." Other forms of payment will not be accepted. DO NOT mail cash.

Send entire form, completed, and with \$50.00 fee, in the self-mailer envelope, to the Department of State, Division of Corporations, 162 Washington Avenue, Albany, NY 12231-0002.

Statement of Addresses and Directors, Part C

IN WITNESS WHEREOF, this certificate has been subscribed this 29th day of Oct., 1992, by the undersigned who affirms that the statements made herein are true under the penalties of perjury.

Francesca DiLemme
PRINT OR TYPE NAME

CO-OWNER
PRINT OR TYPE TITLE

Francesca DiLemme
SIGNATURE
STATE OF NEW YORK
DEPARTMENT OF STATE

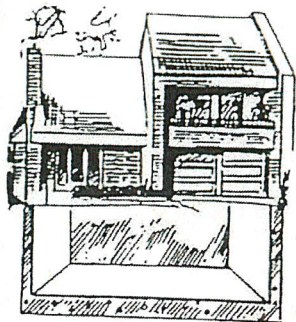
FILED NOV 04 1992

BY: EE

MAKE NO MARKS BELOW THIS LINE

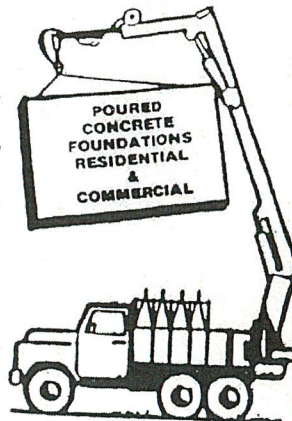
921104002171

Building A Home?



"You'll be secure ...
... with a solid
concrete basement."

- Stronger
- Drier
- Virtually
Maintenance
Free
- Competitively
Priced



Dilemme
& SONS INC.

2nd GENERATION CONCRETE CONTRACTOR

**FREE
ESTIMATES**

564-2195
OR EVES CALL 566-0559

**FULLY
INSURED**

BA
BUILDERS
ASSOCIATION
of the Hudson Valley

DILEMME & SON'S INC.
CONCRETE CONTRACTOR
RD #2, ROUTE 300, BOX 119
WALLKILL, N.Y. 12589

**FREE
ESTIMATES**



ALL-STATE LEGAL 800-225-0910 EDN11 RECYCLED



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

June 2, 2025

Via Certified Mail, Return Receipt Requested and First-Class Mail

Mr. Nicky Dilemme
PO Box 10355
Newburgh, NY 12550

P: 845.562.9100
F: 845.562.9126

655 Little Britain Road
New Windsor, NY 12553

P.O. Box 2280
Newburgh, NY 12550

Re: Service of Appearance Ticket with Information and Notice of Inspection
with Photographs
Complaint No. 23-0267
Our File No. 802.171

Dear Mr. Dilemme:

Enclosed for service upon you please find the Appearance Ticket with Information together with copies of the Notice of Violation and Order to Remedy dated September 13, 2024; Notice of Inspection dated August 9, 2024; and Notice of Inspection with photographs dated September 11, 2024 previously served upon you. Also annexed to the Appearance Ticket is the Notice of Inspection with photographs performed May 22, 2025.

ATTORNEYS

David L. Rider
Charles E. Frankel
Michael J. Matsler
Mark C. Taylor
Deborah Weisman-Estis
M. Justin Rider

M. J. Rider
(1906-1968)
Elliott M. Weiner
(1915-1990)

COUNSEL

Stewart P. Glenn
Mary Fern Breheney
Stephen P. Duggan, III
John K. McGuirk
(1942-2018)

OF COUNSEL

Craig F. Simon

Sincerely,

Cheryl R. Churney
Senior Paralegal, Litigation Department

:crc
Encs.

cc: Mr. James Campbell
Mr. Gerald Canfield
Mark C. Taylor, Esq.
Michael J. Matsler, Esq.

APPEARANCE TICKET

Date: June 2nd, 2025

COMPLAINT NO. 23-0267

NICKY DiLEMME
PO Box 10355
Newburgh, NY 12550

JENNIFER McHUGH
2201 Route 300
Wallkill, NY 12589

DILEMME & SONS, INC.
2201 Route 300
Wallkill, NY 12589

PREMISES: SEC-BLK-LOT: 3-1-91.2

STREET ADDRESS: 2201 Route 300, Newburgh, NY 12550

OWNER(S) OF RECORD: Nicky DiLemme & Jennifer McHugh

ZONE: AR

YOU ARE HEREBY NOTIFIED to appear personally in the Town court of the Town of Newburgh, located at 311 Route 32, Newburgh, NY 12550 on Wednesday, June 18th, 2025 at 10:00 a.m.

To answer the charges of committing the following offenses at the above-mentioned location:

1. An accessory structure and land are being used and occupied that are not in conformance with the regulations specified for the district in which are located. The accessory structure and a portion of the premises are being used for the running of a concrete business which is not compliant with the zoning district.

Which is in violation of:

Chapter 185, Zoning, Article III, Section 185-7, Effect of Establishment of Zoning Districts, which provides under subsection A and F as follows:

A. Compliance with regulations. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, moved, altered, rebuilt or

enlarged except in conformity with the regulations herein specified for the district in which it is located.

F. Unspecified uses. Any use not specifically permitted shall be deemed to be prohibited.

The “USE” is not a specified use found in the Table of Use and Bulk Requirements, AR District – Schedule 2.

2. Illegal off-street parking and outdoor storage of commercial vehicles, trailers, construction vehicles and equipment including form truck, box truck, dumpster, multiple trailers and construction materials.

Which is in violation of:

Chapter 185, Zoning, Article V, Section 185-13, Off-Street Parking, which provides under subsection E as follows:

E. Off-street parking of commercial and recreation vehicles in all residential districts. Commercial vehicles may be parked off street in residential districts, provided that:

- (1) The vehicle is engaged in the provision of service, delivery or pickup at a residence.
- (2) The vehicle is on a private lot, other than those cited in Subsection E(1) above, and is operated by an occupant of the principal building and the commercial vehicle is totally contained within a garage or carport. Notwithstanding the foregoing and the provisions of § 185-46, one commercial vehicle having a gross vehicle weight of not more than 16,500 pounds, operated by an occupant of the principal building, and not contained in a garage or carport, is permitted to be parked on a private lot, provided that any other commercial vehicle within a carport on the lot is completely screened from view.
- (3) Farm and agriculturally related commercial vehicles located on agricultural residential parcels are exempt from these regulations.
- (4) Campers or recreational vehicles, camper trailers and utility trailers may not be parked in a residential district in a required front yard setback nor between the street line and the principal building other than those cited in Subsection A(2) above. In no event shall such parked vehicles be used for residential purposes.

None of the conditions or exceptions as set forth in Subsection E have been met, in that none of said vehicles provide service, delivery or pickup at a residence; are being operated by an occupant of a principal building, are totally contained within a garage or carport; or are being used for farming or agricultural purposes.

3. Unlawful operation of a business without a certificate of occupancy.

Which is in violation of:

Chapter 185 Zoning, Article VII, Section 185-50, which provides as follows under Subsection A(2):

A. Required. A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of a building or the land to which it applies. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building and Code Enforcement Officer:

(2) Occupancy, use or any change in the use of any land.

Said property is designated in the Building Department official records as a single-family residence. There is no certificate of occupancy on file allowing the premises to be operating a commercial business. As set forth in the Notice of Inspections dated 08/09/2024 and 09/11/2024, copies annexed, the undersigned Code Compliance Officer inspected the property.

4. Failure to comply with the Notice of Violation and Order to Remedy dated 09/13/2024.

The undersigned observed that the accessory structure and a portion of the premises are being used for the running of a concrete business which is not compliant with the zoning district. The parking and outdoor storage of commercial vehicles, trailers, construction vehicles and equipment including form truck, box truck, dumpster, multiple trailers and construction materials on the premises. Evidence of the unlawful operation of a business without a certificate of occupancy. There is no certificate of occupancy or permit on file for allowing such use(s).

A further inspection was conducted as set forth in the Notice of Inspection dated TBD, copy annexed, which show no attempt was made to remedy any of the Order to Remedy violations.

PENALTIES:

Chapter 185, Zoning, Article VII, Section 185-52 which provides:

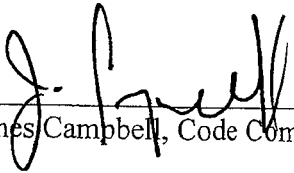
A. Notice and punishment. After the fifth day following written notice served by certified or registered mail or by personal service by the Building and Code Enforcement Officer to the effect that a violation of any of the provisions of this chapter exists, for each and every such violation any person who commits, takes part in, or assists in such violation, or who maintains any building or premises in which any such violation shall exist, shall be guilty of an offense. Upon conviction thereof, the person violating the same shall be subject to a fine of not more than \$350 or imprisonment for not more than six months, or both, for conviction of a first offense; a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both, for

conviction of a second offense committed within a period of five years of the committing of the first offense; and a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both, for conviction of a third or subsequent offense, all of which were committed within a period of five years. Each week's continued violation shall constitute a separate additional violation. No notice shall be required for a violation which is a continued or a recurring violation for which an original notice has already been given.

B. Civil penalties. A person who commits, takes part or assists in violation of any provision of this chapter or who maintains a building or premises in which any such violation shall exist shall be subject to monetary civil penalties not exceeding \$350 for the first violation; not less than \$350 nor more than \$700 for the second violation occurring within a period of five years; and not less than \$700 nor more than \$1,000 for a third or subsequent violation occurring within a period of five years. Each week's continued violation shall constitute a separate additional violation.

UPON YOUR FAILURE TO APPEAR AS ABOVE DIRECTED, A WARRANT MAY BE ISSUED FOR YOUR ARREST.

Issued on June 2nd, 2025.


By: James Campbell, Code Compliance Department

**STATE OF NEW YORK: COUNTY OF ORANGE
JUSTICE COURT: TOWN OF NEWBURGH:**

THE PEOPLE OF THE STATE OF NEW YORK

INFORMATION

VS.

INCIDENT NO. 23-0267

**NICKY DiLEMME
PO Box 10355
Newburgh, NY 12550**

**JENNIFER McHUGH
2201 Route 300
Wallkill, NY 12589**

**DiLEMME & SONS, INC.
2201 Route 300
Wallkill, NY 12589**

I, James Campbell, COMPLAINANT, am a CODE ENFORCEMENT OFFICIAL for the TOWN OF NEWBURGH, with an office at

21 HUDSON VALLEY PROFESSIONAL PLAZA, NEWBURGH, NY 12550

By this INFORMATION make written accusation, based on personal knowledge, against

Nicky DiLemme and Jennifer McHugh, the owners of record of the subject property according to the Town of Newburgh records and Orange County Image Mate Online, pursuant to the following:

1. On the 8th day of September, 2024, at 2:40 p.m. at 2201 Route 300, Newburgh, New York 12550 in the Town of Newburgh, County of Orange, State of New York I observed that an accessory structure and land are being used and occupied that is not conforming with the regulations specified for the district in which it is located. The accessory structure and a portion of the premises are being used for the running of a concrete business which is not compliant with the zoning district, which is an Agricultural and Residential (AR) Zone, where such businesses are not permitted according to the Town of Newburgh Table of Use and Bulk Requirements AR District – Schedule 2. The structure I observed is a detached two car garage building of the type typically use as a residential detached garage. On the sides and in front (Strawridge Road) of the detached garage I observed multiple commercial vehicles including box truck, concrete form truck, four enclosed trailers, rack body truck, pickup truck, garbage dumpster, Lull (forklift), construction materials and tools. My observations were made on the public way at the point where it meets the driveway meets Strawridge Road. I observed signs on the property advertising “DiLemme & Sons, Inc. Concrete Contractor” with a phone number and website address. I checked the Town’s records, which showed this property

as being in an AR Zone, with a certificate of occupancy for use as single family residence. No approval or certificate of occupancy was found for conducting business operations.

2. On September 11, 2024 I performed a follow up inspection at the subject property. I observed, while standing on the roadway by the property, the same types of motor vehicles, materials and equipment used for the construction business being stored on the premises along with the same signs as before advertising the business.

3. On September 13, 2024 I issued a Notice of Violation and Order to Remedy to the owners of the subject property Nicky DiLemme and Jennifer McHugh at their mailing addresses of record, citing to violations of the Town of Newburgh Municipal Code section 185-7 for the illegal operation of a business in an AR zone; section 185-13, illegal offstreet parking; section 185-50 for illegal operation of a business without a certificate of occupancy. To-date the owners' violations are continuing.

4. On May 22, 2025 I performed a follow up inspection at the subject property. I observed, while standing on the roadway by the property, the same types of motor vehicles, materials and equipment used for the construction business being stored on the premises along with the same signs as before advertising the business.

By reason of the above, the owners are charged with the following violations:

1. Illegal use of property, pursuant to Chapter 185, Zoning, Article III, Section 185-7, Effect of Establishment of Zoning Districts, which provides under subsection A and F as follows:

A. Compliance with regulations. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, moved, altered, rebuilt or enlarged except in conformity with the regulations herein specified for the district in which it is located.

F. Unspecified uses. Any use not specifically permitted shall be deemed to be prohibited.

The "use" of running a commercial concrete business is not a specifically permitted use found in the Table of Use and Bulk Requirements, AR District – Schedule 2 so therefore not permitted.

2. Illegal off-street parking and outdoor storage of commercial vehicles, trailers, construction vehicles and equipment including form truck, box truck, dumpster, multiple trailers and construction materials, pursuant to Chapter 185, Zoning, Article V, Section 185-13, Off-Street Parking, which provides under subsection E as follows:

E. Off-street parking of commercial and recreation vehicles in all residential districts. Commercial vehicles may be parked off street in residential districts, provided that:

(1) The vehicle is engaged in the provision of service, delivery or pickup at a residence.

(2) The vehicle is on a private lot, other than those cited in Subsection E(1) above, and is operated by an occupant of the principal building and the commercial vehicle is totally contained within a garage or carport. Notwithstanding the foregoing and the provisions of § 185-46, one commercial vehicle having a gross vehicle weight of not more than 16,500 pounds, operated by an occupant of the principal building, and not contained in a garage or carport, is permitted to be parked on a private

lot, provided that any other commercial vehicle within a carport on the lot is completely screened from view.

(3) Farm and agriculturally related commercial vehicles located on agricultural residential parcels are exempt from these regulations.

(4) Campers or recreational vehicles, camper trailers and utility trailers may not be parked in a residential district in a required front yard setback nor between the street line and the principal building other than those cited in Subsection A(2) above. In no event shall such parked vehicles be used for residential purposes.

None of the conditions or exceptions as set forth in Subsection E have been met, in that none of said vehicles provide service, delivery or pickup at the residence; are being operated by an occupant of a principal building, are totally contained within a garage or carport; or are being used for farming or agricultural purposes. Multiple enclosed trailers, box trucks, form trucks, rack body trucks have been present on the property. The number changes as they may be parked on a jobsite when in use.

3. Unlawful operation of a business without a certificate of occupancy, pursuant to Chapter 185 Zoning, Article VII, Section 185-50, which provides as follows under Subsection A(2):

A. Required. A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of a building or the land to which it applies. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building and Code Enforcement Officer:

(2) Occupancy, use or any change in the use of any land.

Said property is designated in the Building Department official records as a single-family residence. There is no certificate of occupancy on file allowing the premises to be operating a commercial business.

4. Failure to comply with the Notice of Violation and Order to Remedy dated 09/13/2024 and (Copy annexed)

PENALTIES:

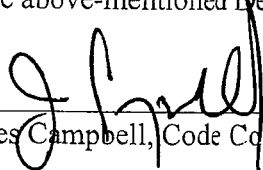
Chapter 185, Zoning, Article VII, Section 185-52 which provides:

A. Notice and punishment. After the fifth day following written notice served by certified or registered mail or by personal service by the Building and Code Enforcement Officer to the effect that a violation of any of the provisions of this chapter exists, for each and every such violation any person who commits, takes part in, or assists in such violation, or who maintains any building or premises in which any such violation shall exist, shall be guilty of an offense. Upon conviction thereof, the person violating the same shall be subject to a fine of not more than \$350 or

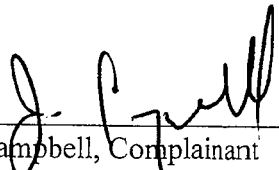
imprisonment for not more than six months, or both, for conviction of a first offense; a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both, for conviction of a second offense committed within a period of five years of the committing of the first offense; and a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both, for conviction of a third or subsequent offense, all of which were committed within a period of five years. Each week's continued violation shall constitute a separate additional violation. No notice shall be required for a violation which is a continued or a recurring violation for which an original notice has already been given.

B. Civil penalties. A person who commits, takes part or assists in violation of any provision of this chapter or who maintains a building or premises in which any such violation shall exist shall be subject to monetary civil penalties not exceeding \$350 for the first violation; not less than \$350 nor more than \$700 for the second violation occurring within a period of five years; and not less than \$700 nor more than \$1,000 for a third or subsequent violation occurring within a period of five years. Each week's continued violation shall constitute a separate additional violation.

WHEREFORE, the Complainant prays that the above-mentioned Defendant be dealt with pursuant to law.


By: James Campbell, Code Compliance Department

False statements made in the foregoing instrument are punishable as a Class A misdemeanor pursuant to §210.45 of the Penal Law. Accordingly, and with notice of the foregoing, I hereby affirm that the foregoing statements of facts are true, under penalty of perjury on this 2nd day of June, 2025.


James Campbell, Complainant

Appearance ticket was issued to Defendant for court appearance on Wednesday, June 18th, 2025 at 10:00 a.m., Justice Court, TOWN OF NEWBURGH, NY

TOWN OF NEWBURGH

Crossroads of the Northeast

CODE COMPLIANCE DEPARTMENT
21 HUDSON VALLEY PROFESSIONAL PLAZA
NEWBURGH NEW YORK 12550
TELEPHONE 845-564-7801
FAX LINE 845-564-7802

NOTICE OF VIOLATION AND ORDER TO REMEDY

DATE: 09/13/2024

TO: Nicky DiLemme
PO Box ~~10655~~ 10355
Newburgh, NY 12550

Jennifer McHugh
2201 Route 300
Wallkill, NY 12589

COMPLAINT NO: 23-0267

PREMISES: SEC-BLK-LOT: 3-1-91.2

STREET ADDRESS: 2201 Route 300, Wallkill, NY 12589

OWNER(S) OF RECORD: Nicky DiLemme
Jennifer McHugh

ZONE: AR

PLEASE TAKE NOTICE, that you are in violation of the Town of Newburgh Municipal Code with respect to the premises referenced above as follows:

Violation 1. An accessory structure and land are being used and occupied that is not conforming with the regulations specified for the district in which it is located. The accessory structure and a portion of the premises are being used for the running of a concrete business which is not compliant with the zoning district.

Which is in violation of:

Chapter 185, Zoning, Article III, Section 185-7, Effect of Establishment of Zoning Districts, which provides under subsection A and F as follows:

A. Compliance with regulations. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, moved, altered, rebuilt or enlarged except in conformity with the regulations herein specified for the district in which it is located.

F. Unspecified uses. Any use not specifically permitted shall be deemed to be prohibited.

The "USE" is not a specified use found in the Table of Use and Bulk Requirements, AR District – Schedule 2.

Violation 2. Illegal off-street parking and outdoor storage of commercial vehicles, trailers, construction vehicles and equipment including form truck, box truck, dumpster, multiple trailers and construction materials.

Which is in violation of:

Chapter 185, Zoning, Article V, Section 185-13, Off-Street Parking, which provides under subsection E as follows:

E. Off-street parking of commercial and recreation vehicles in all residential districts. Commercial vehicles may be parked off street in residential districts, provided that:

(1) The vehicle is engaged in the provision of service, delivery or pickup at a residence.

(2) The vehicle is on a private lot, other than those cited in Subsection E(1) above, and is operated by an occupant of the principal building and the commercial vehicle is totally contained within a garage or carport. Notwithstanding the foregoing and the provisions of § 185-46, one commercial vehicle having a gross vehicle weight of not more than 16,500 pounds, operated by an occupant of the principal building, and not contained in a garage or carport, is permitted to be parked on a private lot, provided that any other commercial vehicle within a carport on the lot is completely screened from view.

(3) Farm and agriculturally related commercial vehicles located on agricultural residential parcels are exempt from these regulations.

(4) Campers or recreational vehicles, camper trailers and utility trailers may not be parked in a residential district in a required front yard setback nor between the street line and the principal building other than those cited in Subsection A(2) above. In no event shall such parked vehicles be used for residential purposes.

None of the conditions or exceptions as set forth in Subsection E have been met, in that none of said vehicles provide service, delivery or pickup at a residence; are being operated by an occupant of a principal building, are totally contained within a garage or carport; or are being used for farming or agricultural purposes.

Violation 3. Unlawful operation of a business without a certificate of occupancy.

Which is in violation of:

Chapter 185 Zoning, Article VII, Section 185-50, which provides as follows under Subsection A(2):

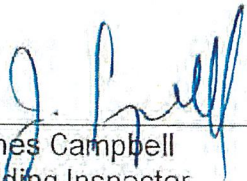
A. Required. A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of a building or the land to which it applies. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building and Code Enforcement Officer:

(2) Occupancy, use or any change in the use of any land.

Said property is designated in the Building Department official records as a single-family residence. There is no certificate of occupancy on file allowing the premises to be operating a commercial business. As set forth in the Notice of Inspections dated 08/09/2024 and 09/11/2024, copies annexed, the undersigned Code Compliance Officer inspected the property.

BY REASON OF THE FOREGOING, YOU ARE HEREBY ORDERED to remedy said violations, cease and desist using said property in the manner set forth above, remove all construction vehicles, trailers and construction materials, and bring said property into compliance with the Town of Newburgh Municipal Code no later than thirty (30) days after service upon you of this Notice of Violation and Order to Remedy, in default of which you may be subject to the fines and penalties, measured from the date of service of this Notice of violation and Order to Remedy upon you, set forth under §185-52(B) as follows:

B. Civil penalties. A person who commits, takes part or assists in violation of any provision of this chapter or who maintains a building or premises in which any such violation shall exist shall be subject to monetary civil penalties not exceeding \$350 for the first violation; not less than \$350 nor more than \$700 for the second violation occurring within a period of five years; and not less than \$700 nor more than \$1,000 for a third or subsequent violation occurring within a period of five years. Each week's continued violation shall constitute a separate additional violation.



James Campbell
Building Inspector

JUSTICE COURT OF THE TOWN OF NEWBURGH
COUNTY OF ORANGE, STATE OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK, X

-against-

Complaint No. 23-0267

Nicky DiLemme
PO Box 10655
Newburgh, NY 12550

Defendants.

X

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

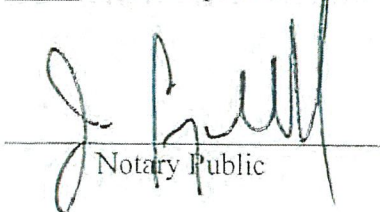
Siobhan Jablesnik, being duly sworn, deposes and says:

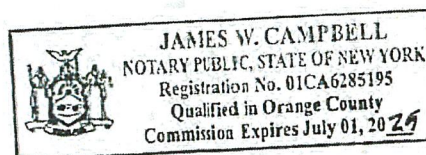
I am the Zoning Board Secretary with the Code Compliance Office for the Town of Newburgh, Orange County, New York. On September 16, 2024, I served the within Notice of Violation and Order to Remedy via certified mail, return receipt requested, by depositing a true copy thereof enclosed in a postage paid wrapper in a depository under the exclusive care and custody of the U.S. Postal Service in New York, addressed to the following persons at the address set forth:

7018 2290 5384 6749
Nicky DiLemme
PO Box 10655
Newburgh, NY 12550



Sworn to before me this
17th day of September 2024.


Notary Public



JUSTICE COURT OF THE TOWN OF NEWBURGH
COUNTY OF ORANGE, STATE OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK, _____X

-against-

Complaint No. 23-0267

Jennifer McHugh
2201 Route 300
Wallkill, NY 12589

Defendants. _____X

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

Siobhan Jablesnik, being duly sworn, deposes and says:

I am the Zoning Board Secretary with the Code Compliance Office for the Town of Newburgh, Orange County, New York. On September 16, 2024, I served the within Notice of Violation and Order to Remedy via certified mail, return receipt requested, by depositing a true copy thereof enclosed in a postage paid wrapper in a depository under the exclusive care and custody of the U.S. Postal Service in New York, addressed to the following persons at the address set forth:

7018 2290 0001 6756

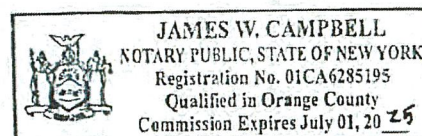
Jennifer McHugh
2201 Route 300
Wallkill, NY 12589

[Handwritten Signature]

Sworn to before me this
17TH day of September 2024.

[Handwritten Signature]

Notary Public



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Nice Airman
PO Box 1035
Newbury NH 03576

9590 9402 8013 2305 3709 54

2. Article Number (Transfer from front)

7018 2290 0001 5384 6749

PS Form 3811, July 2020 PSN 7530-02-000-9063

COMPLETE THIS SECTION ON DELIVERY

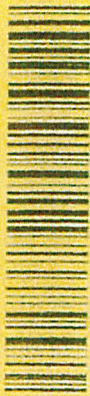
- A. Signature
☒ *John Geraghty*
☐ Agent
☐ Registered Mail
☐ Registered Mail Express
- B. Received by (Printed Name)
 John Geraghty
- C. Date of Delivery
☐ Yes
☐ No
- D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type
- ☐ Adult Signature
 - ☐ Adult Signature Restricted Delivery
 - ☒ Certified Mail
 - ☐ Certified Mail Restricted Delivery
 - ☐ Collect on Delivery
 - ☐ Mail
 - ☐ Mail Restricted Delivery
 - ☐ Priority Mail Express
 - ☐ Registered Mail
 - ☐ Registered Mail Restricted Delivery
 - ☐ Signature Confirmation
 - ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

OTK RETURN RECEIPT

USPS TRACKING #



9590 9402 8013 2305 3209 54

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box •

CODE COMPLIANCE Dept.
DEPARTMENT 21 Hudson Valley Professional Plaza
Newburgh, N.Y. 12550

SEP 23 2024

SEP 2

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

Print your name and address on the reverse so that we can return the card to you. **1** *James McHugh*
 ■ Attach this card to the back of the mailpiece, or on the front if space permits. **2** *220. vt jee*
3 *Waltham MA 02454*

1. Article Addressed to:

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature]
 B. Received by (Printed Name) *[Signature]*
 Date of Delivery *9/1/19*

D. Is delivery address different from item 1? ☐ Yes ☒ No
 If YES, enter delivery address below: ☐ Yes ☒ No

3. Service Type

☐ Adult Signature
☒ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ In Delivery Restricted Delivery
☐ Mail
☐ Registered Mail®
☒ Registered Mail Express®
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery



9590 9402 8013 2305 3709 61

2. Article Number (Transfer from associated label)

701A 2290 0001 5384 675b

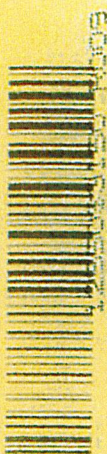
(over \$500) Mail Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

OTR Return Receipt

USPS TRACKING #



9590 9402 8003 2305 3709 61

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box. •

**CODE COMPLIANCE
DEPARTMENT**

Code Compliance Dept.
21 Hudson Valley Professional Plaza
Newburgh, N.Y. 12550

SEP 20 2001

Sign X

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10



TOWN OF NEWBURGH

~Crossroads of the Northeast~

CODE COMPLIANCE DEPARTMENT
21 HUDSON VALLEY PROFESSIONAL PLAZA
NEWBURGH, NEW YORK 12550

TELEPHONE 845-564-7801
FAX LINE 845-564-7802

NOTICE OF INSPECTION

DATE: 08/09/2024

TO: Jennifer McHugh
2201 Route 300
Walkill, NY12589

TO: Nicky DiLemme
P.O. Box 10355
Newburgh, NY12550

SEC-BLK-LOT: 3-1-91.2

COMPLAINT NO: 23-0267

LOCATION: 2201 Route 300, Walkill, NY 12589

PLEASE TAKE NOTICE, an inspection has been made regarding the complaint registered against the location described above, pertaining to:

Report of running a construction business, with numerous construction vehicles, on the lot of a single family home in the agricultural zone.

YOU ARE HEREBY INFORMED that an inspection was performed as follows:

Complaint Validation conducted on 08/09/24 at 2:40

Inspection Results: Fail - Met with Mr. DiLemme at the garage / business in question off of Strawridge Road (backside of the property of 2201 Route 300). The garage and the area surrounding the garage is being used as a contractor's yard to store vehicles, trailers and concrete equipment and materials. I plan on following up in three weeks on or about September 2nd, 2024 giving Mr. DiLemme time to decide on how he is going proceed with the complaint / violation.


James Campbell, Code Compliance



TOWN OF NEWBURGH

~Crossroads of the Northeast~

CODE COMPLIANCE DEPARTMENT
21 HUDSON VALLEY PROFESSIONAL PLAZA
NEWBURGH, NEW YORK 12550

TELEPHONE 845-564-7801
FAX LINE 845-564-7802

NOTICE OF INSPECTION

DATE: 09/11/2024

TO: Jennifer McHugh
2201 Route 300
Wallkill, NY 12589

TO: Nicky DiLemme
P.O. Box 10355
Newburgh, NY 12550

SEC-BLK-LOT: 3-1-91.2

COMPLAINT NO: 23-0267

LOCATION: 2201 Route 300, Wallkill, NY 12589

PLEASE TAKE NOTICE, an inspection has been made regarding the complaint registered against the location described above, pertaining to:

Report of running a construction business, with numerous construction vehicles, on the lot of a single family home in the agricultural zone.

YOU ARE HEREBY INFORMED that an inspection was performed as follows:

Follow Up Complaint conducted on 09/11/24 at 10:30

Inspection Results: Fail - I went to the parcel to see if the property was still being used as a contractor's yard to store vehicles, trailers and concrete equipment and materials. At the time of the inspection, from the roadway, the property is still being used as a contractor's yard. A Notice of Violation and Order to Remedy will be drafted and served as required by the Town of Newburgh Municipal Code. Four photographs taken on this inspection.

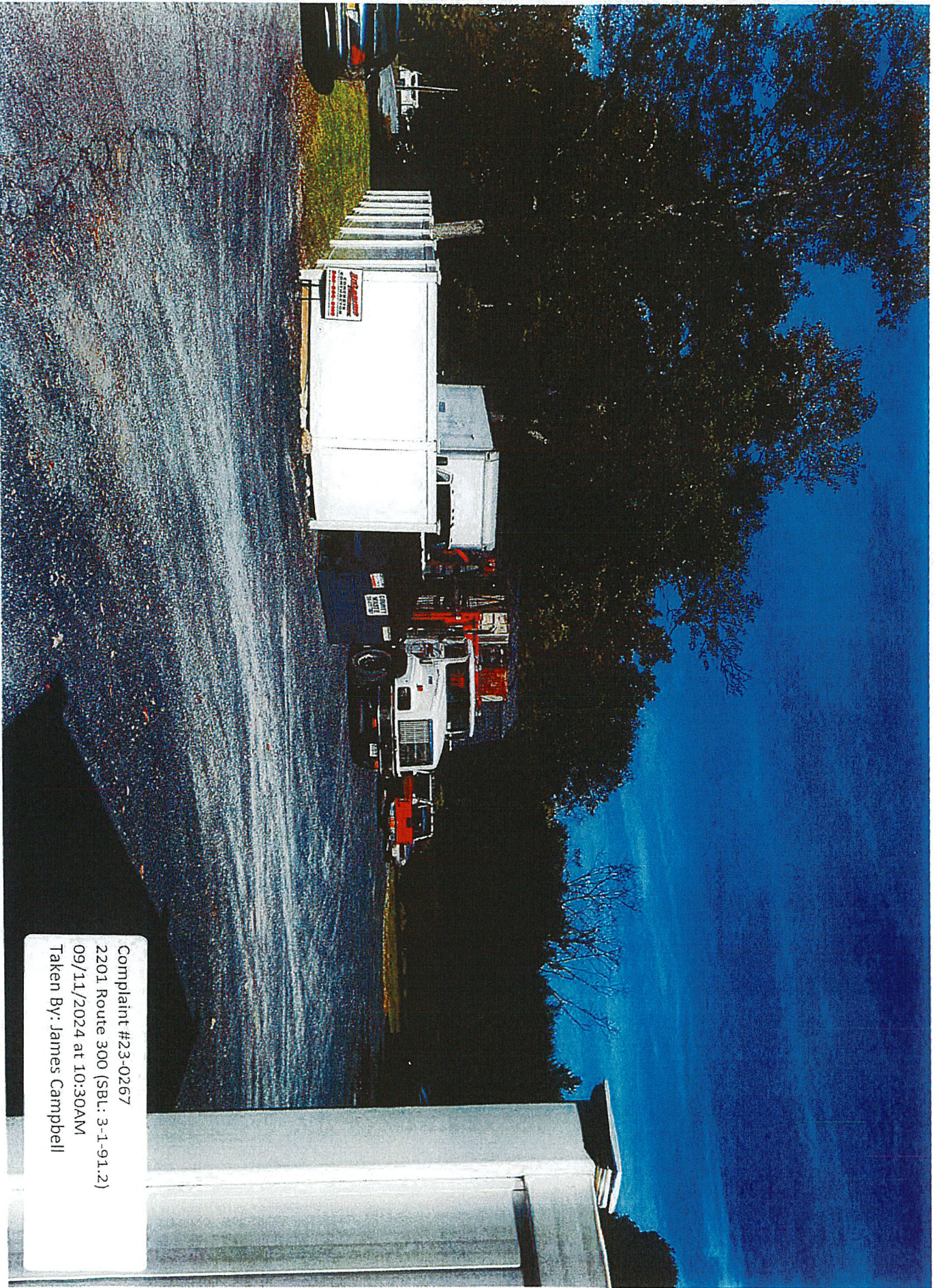
James Campbell, Code Compliance



Complaint #23-0267
2201 Route 300 (SBL: 3-1-91.2)
09/11/2024 at 10:30AM
Taken By: James Campbell



Complaint #23-0267
2201 Route 300 (SBL: 3-1-91.2)
09/11/2024 at 10:30AM
Taken By: James Campbell



Complaint #23-0267
2201 Route 300 (SBL: 3-1-91.2)
09/11/2024 at 10:30AM
Taken By: James Campbell



Complaint #23-0267
2201 Route 300 (SBL: 3-1-91.2)
09/11/2024 at 10:30AM
Taken By: James Campbell



TOWN OF NEWBURGH

~Crossroads of the Northeast~

CODE COMPLIANCE DEPARTMENT
21 HUDSON VALLEY PROFESSIONAL PLAZA
NEWBURGH, NEW YORK 12550

TELEPHONE 845-564-7801
FAX LINE 845-564-7802

NOTICE OF INSPECTION

DATE: 05/22/2025

TO: Jennifer McHugh
2201 Route 300
Wallkill, NY 12589
TO: Nicky DiLemme
P.O. Box 10355
Newburgh, NY 12550

SEC-BLK-LOT: 3-1-91.2

COMPLAINT NO: 23-0267

LOCATION: 2201 Route 300, Wallkill, NY 12589

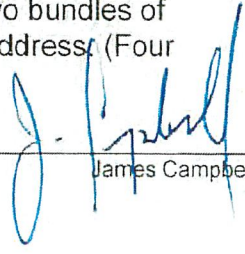
PLEASE TAKE NOTICE, an inspection has been made regarding the complaint registered against the location described above, pertaining to:

Report of running a construction business, with numerous construction vehicles, on the lot of a single family home in the agricultural zone.

YOU ARE HEREBY INFORMED that an inspection was performed as follows:

Follow Up Complaint conducted on 05/22/25 at 2:00

Inspection Results: Fail - I performed an inspection to see if the violations still existed before issuance of the Appearance Ticket and Information to the property and business owners. From Strawridge Road (backside of the property of 2201 Route 300) I was able to see at the time of the inspection the following: garbage dumpster, box truck, concrete form truck with boom, utility trailer, portable light tower, four enclosed trailers, three pickup trucks, rack body truck, two bundles of lumber and a Lull (forklift). The business is still operating from this address. (Four pictures taken this inspection).


James Campbell, Code Compliance



Complaint #23-0267

2201 Route 300 (SBL: 3-1-91.2)

05/22/2025 at 2:00PM

Taken By: James Campbell



Complaint #23-0267
2201 Route 300 (SBL: 3-1-91.2)
05/22/2025 at 2:00PM
Taken By: James Campbell



Complaint #23-0267
2201 Route 300 (SBL: 3-1-91.2)
05/22/2025 at 2:00PM
Taken By: James Campbell



Complaint #23-0267
2201 Route 300 (SBL: 3-1-91.2)
05/22/2025 at 2:00PM
Taken By: James Campbell

Residential

[Property Info](#)[Owner/Sales](#)[Inventory](#)[Improvements](#)[Tax Info](#)[Report](#)[Comparables](#)

Municipality of Newburgh

SWIS: 334600 Tax ID: 3-1-91.2

Ownership Information

Name	Secondary Name	Address
Nicky G DiLemme		P.O. Box 10355 Newburgh NY 12550
Jennifer M McHugh		2201 St Rte 300 Wallkill NY 12589

Sale Information

No Sales Information Available

Photographs

(Click on photo to enlarge it.)



Photo

Photo 1 of 2



Documents

No documents found for this parcel

Maps

[View Tax Map](#)[Pin Property on GIS Map](#)[View in Google Maps](#)[View in Bing Maps](#)[View in Near Map](#)[Map Disclaimer](#)



Department of State Division of Corporations

Entity Information

[Return to Results](#)[Return to Search](#)

Entity Details

ENTITY NAME: DI LEMME & SONS, INC.

DOS ID: 1160191

FOREIGN LEGAL NAME:

FICTITIOUS NAME:

ENTITY TYPE: DOMESTIC BUSINESS CORPORATION

DURATION DATE/LATEST DATE OF DISSOLUTION:

SECTION OF LAW: -

ENTITY STATUS: ACTIVE

DATE OF INITIAL DOS FILING: 04/06/1987

REASON FOR STATUS:

EFFECTIVE DATE INITIAL FILING: 04/06/1987

INACTIVE DATE:

FOREIGN FORMATION DATE:

STATEMENT STATUS: CURRENT

COUNTY: ORANGE

NEXT STATEMENT DUE DATE: 04/30/2027

JURISDICTION: NEW YORK, UNITED STATES

NFP CATEGORY:

ENTITY DISPLAY

Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

Name: THE CORPORATION

Address: PO BOX 10355, NEWBURGH, NY, UNITED STATES, 12552

Electronic Service of Process on the Secretary of State as agent: Not Permitted

Chief Executive Officer's Name and Address

Name: NICK DILEMME

Address: PO BOX 10355, NEWBURGH, NY, UNITED STATES, 12552

Principal Executive Office Address

Address: 2201 ROUTE 300, WALLKILL, NY, UNITED STATES, 12589

Registered Agent Name and Address

Name:

Address:

Entity Primary Location Name and Address

Name:

Address:

Farmcorpilag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share
NO PAR VALUE	200	\$0.00000

AgenciesApp DirectoryCountiesEventsProgramsServices

October 22, 2024

Town of Newburgh
Code Compliance Department
21 Hudson Valley Professional Plaza
Newburgh, NY 12550
Attn: Jim Campbell

Re: Complaint No: 23-0267

Dear Mr. Campbell,

I received a Notice of Violation and Order to Remedy for the property at 2201 State Route 300, Newburgh. I am in the process of remediating that violation and want to bring you up to date on my progress.

In 2008, I had a site plan approval to go ahead with a project on New Road in the Town of Newburgh. I did not go forward with the project at that time. I am now re-starting that project with the object of moving my business from 2201 State Route 300 to New Road.

Please be advised that I spoke to Planning Board Chairman, John Ewasutyn on 10-9-24 and he made me aware I have to update all my documents and fill out a new application.

I will be retaining engineer Darren Doce. Darren is revising the SWPPP and getting a quote from his surveying contractor.

Darren has been and will be in touch with John Ewasutyn and will be preparing a new site plan application. I will keep you informed of my progress.

Please call me with any questions or concerns.

Thank you for your help with this matter.



Nick DiLemme
Office: 845-564-2195
Cell Phone: 845-629-7079



STEWART NY S&DC
99 ENTERPRISE DR
NEWBURGH, NY 12555-9996
(800)275-8777

10/22/2024

03:45 PM

Product	Qty	Unit Price	Price
First-Class Mail® Letter	1		\$0.73
Newburgh, NY 12550			
Weight: 0 lb 0.50 oz			
Estimated Delivery Date			
Thu 10/24/2024			
Certified Mail®			\$4.85
Tracking #:			
70092820000435785473			
Return Receipt			\$4.10
Tracking #:			
9590 9402 8937 4064 6981 58			
Total			\$9.68

Grand Total: \$9.68

Credit Card Remit \$9.68

Card Name: AMEX
Account #: XXXXXXXXXXXX2108
Approval #: 804911
Transaction #: 295
AID: A000000025010801 Contactless
AL: AMERICAN EXPRESS
PIN: Not Required

Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data rates may apply. You may also visit www.usps.com USPS Tracking or call 1-800-222-1811.

Preview your Mail
Track your Packages
Sign up for FREE @
<https://informedelivery.usps.com>

All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.

Tell us about your experience.
Go to: <https://postalexperience.com/Pos>
or scan this code with your mobile device,



or call 1-800-410-7420.

UFN: 355702-0220
Receipt #: 840-51050275-2-4456131-2
Clerk: 33

7009 2820 0000 4000 8258 3578 5475

U.S. Postal Service TM

CERTIFIED MAIL TM RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

Newburgh, NY 12550

OFFICIAL USE

Postage	\$4.25
Certified Fee	\$4.10
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
	\$0.00
	\$0.00
Total Postage & Fees	\$0.73
	\$

0220
33

Postmark
Here

22 2024

10/22/2024

\$9.68

Sent To

Street, Apt. No.;
or PO Box No.

City, State, ZIP+4

Town of Newburgh
Code Compliance Department
21 Hudson Valley Professional Plaza
Newburgh, NY 12550
Attn: Jim Campbell

PS Form 3800, Aug.

See Reverse for Instructions

USPS TRACKING #

ALBANY NY 120



28 OCT 2024 PM 4 L



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

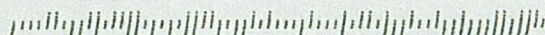
9590 9402 8937 4064 6981 58

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box*

Nick DiLemme
PO Box 10355
Newburgh, NY 12550

2-03555



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Town of Newburgh
Code Compliance Department
21 Hudson Valley Professional Plaza
Newburgh, NY 12550
Attn: Jim Campbell



9590 9402 8937 4064 6981 58

2. Article Number (Transfer from service label)

7009 2820 0004 3578 5473

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt



445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyfeder.com

Taylor Palmer
tpalmer@cuddyfeder.com

October 3, 2025

BY E-MAIL & FEDERAL EXPRESS (codecompliance@townofnewburgh.org)

Gerald Canfield
Supervisor
Code Compliance Department
Town of Newburgh
21 Hudson Valley Professional Plaza
Newburgh, New York 12550

RE: Request for Interpretation – Existing Legal Non-Conforming Use
DiLemme & Sons, Inc.
Premises: 2201 State Route 300, Town of Newburgh, New York
Tax ID: 3-1-91.2

Dear Supervisor Canfield:

Our Office represents Nick DiLemme and Jennifer McHugh (the “Owners”), the owners of the property located at 2201 State Route 300 in the Town of Newburgh (the “Premises”), and DiLemme & Sons, Inc. (“DiLemme & Sons” or the “Company”), of which Nick DiLemme is a Principal. On behalf of the Owners and DiLemme & Sons, submitted herein is a request for an Interpretation that the Company’s use of the Premises and the improvements thereon is a legal non-conforming use. We request this Interpretation to enable DiLemme & Sons to continue to operate at the Premises as it has done since at least 1984.

We understand that this is the first Interpretation request concerning the Company’s use of the Premises, as the records produced by the Town in response to our FOIL request dated July 30, 2025,¹ did not include any documentation or records of such a request. Importantly, we also highlight that the responsive documents from the Town did not include filed copies of the Notice of Complaint dated September 11, 2023² or the Notice of Violation and Order to Remedy³ related to said Complaint as required by Town Law § 267-a(5)(a) and Section 71-16A(6), (10), and -16B of the Town Code, nor did they include evidence that the aforementioned Complaint and Notice of Violation were delivered and/or provided to the Owners or the Company.

THE PREMISES:

The Premises is located at 2201 State Route 300 in the Town of Newburgh. It consists of a 1.2-acre parcel,⁴ which is currently improved with a single-family residence, a detached two-car garage (the

¹ FOIL Reference #2025-00684.

² Complaint No: 23-0267.

³ Dated September 13, 2024.

⁴ The Premises consists of a single parcel currently identified as Tax ID 3-1-91.2 as a result of the merger of the properties formerly identified as Tax IDs 3-1-91 (1.0 acres) and 3-1-92 (0.2 acres). A letter dated March 2007 from the Assessor of the Town of Newburgh referencing this merger is attached hereto as **Exhibit H**.

“Workshop”), an asphalt parking area and separate driveway access from Strawridge Road, together with other site improvements, such as landscaping and a fence partially enclosing the Premises around the Workshop and its parking area.

The Premises is classified in the Agricultural Residence (AR) District and located in an area generally developed with single-family residences, several of which are on properties also serving as the location of commercial enterprises, such as: Hey Budd! LLC at 9 Kings Drive; Cass Jr. & Associates, LLC (d/b/a Blackrock Excavating) at 2102 State Route 300; and Ruggiero Landscaping at 625 Rock Cut Road.

The Premises has been in the DiLemme family since November 12, 1963, when it was conveyed by Lillian and Louis Carfizzi to Nick DiLemme’s father, Nicandro.⁵ The Owners took title to the Premises from Francesca and Nicandro DiLemme on February 26, 2004.⁶

THE DiLEMMES & SONS FAMILY:

Nicandro DiLemme began working as a mason out of the Premises after losing his job with the Ford Motor Company in connection with its closure of the Ford Assembly Plant in Mahwah, New Jersey, which occurred in the summer of 1980. Over the course of several years, Nicandro DiLemme’s business continued to grow, as did its needs, and he received approval for and constructed the Workshop to provide adequate space for his business needs (e.g., tools and commercial vehicle storage) in 1984.⁷ This growth continued, with Nicandro’s masonry business expanding to include cement masonry and concrete finishing, resulting in the formal incorporation of DiLemme & Sons on April 6, 1987.⁸ The family business has continued to operate out of the Premises since then, and the Company is now run by Nicandro DiLemme’s two (2) sons, Nick (the property owner) and Kevin DiLemme.

DiLEMMES & SONS’ COMMERCIAL USE OF THE PREMISES IS LEGALLY NON-CONFORMING:

As noted above, the Company’s use of the Premises for commercial purposes started with Nicandro DiLemme’s masonry career in the early 1980’s and was formally recognized by its incorporation in April 1987. This predates the Town’s adoption of its current zoning ordinance by approximately seven (7) years, as measured from the construction of the Workshop; Chapter 185 of the Town Code (“Zoning”) was adopted by the Town Board of the Town of Newburgh on December 16, 1991, by Local Law No. 4-1991.⁹

⁵ As stated in the Deed from Nicandro DiLemme to himself and Francesca DiLemme, attached hereto as **Exhibit A**.

⁶ Refer to the Deed recorded in the Orange County Land Records on Liber 11405, Page 1587, attached hereto as **Exhibit B**.

⁷ Refer to Building Permit No. 0-5732 issued by the Town of Newburgh, dated June 12, 1984, which was closed out September 10, 1984, attached hereto as **Exhibit F**.

⁸ Refer to the history of the Company as documented by its filings with the Department of State, attached hereto as **Exhibit D**.

⁹ Refer to excerpts of Chapter 185 of the Town Code, attached hereto as **Exhibit I**.

As such, the commercial use of the Premises by DiLemme & Sons is an existing legal Non-conforming Use,¹⁰ which is permitted to remain in operation pursuant to Section 185-19 of the Town Code. Specifically, Section 185-19(A) of the Code states that:

The following provisions shall apply to all buildings and uses existing on the effective date of this chapter, unless otherwise provided, which buildings and uses do not conform to the requirements outlined in this chapter; to all buildings and uses that become nonconforming by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof; and to all conforming buildings housing nonconforming uses. ... A nonconforming use may continue *indefinitely*, subject to the ... provisions [of Section 185-19A(1)-(5)] ...

A plain reading of this provision, as mandated by the state Court of Appeals,¹¹ makes clear that the commercial operations of DiLemme & Sons on the Premises is an existing legal non-conforming use under the Town Code. Further, the Court of Appeals has held that, as a general rule, a non-conforming use that is in existence when a zoning code is adopted is constitutionally protected and will be permitted to continue under the doctrine of vested rights.¹²

DOCUMENTATION IN SUPPORT OF THE REQUESTED INTERPRETATION:

The use of the Premises by DiLemme & Sons was evident upon the construction and its use of the Workshop, which was completed in 1984. Documents memorializing the establishment of this use before the Town of Newburgh adopted its current Zoning Code in 1991¹³ and its Home Occupations ordinance in 2014¹⁴ are enclosed with this letter and include:

Exhibit A: Deed Conveying the Premises from Nicandro DiLemme to Francesca DiLemme and Nicandro DiLemme on October 2, 1964, as found in Liber 1683 Page 147 of the Orange County Land Records;

Exhibit B: Deed Conveying the Premises from Francesca and Nicandro DiLemme to Jennifer McHugh and Nick DiLemme on March 2, 2004, as found in Liber 11405 Page 1587 of the Orange County Land Records;

¹⁰ Defined as "A use ... whether of a building or land or both, which does not which does not conform to the requirements respecting permitted uses ... as set forth in [Chapter 185] for the district in which it is situated but which lawfully existed prior to the enactment of a zoning law or any revision or amendment thereto which would prohibit the use and which is maintained after the effective date thereof although it does not conform to the use ... regulations of the district in which it is located." Town Code § 185-3B (titled "Definitions; word usage").

¹¹ See *Toys "R" US v. Silva*, 89 N.Y.2d 411, 420 (1996) (overturning the underlying decisions because the lower courts' holdings "ignore[d] the plain language of the ordinance").

¹² See *Ellington Constr. Corp. v. Zoning Bd. of Appeals*, 77 N.Y.2d 114, 118-19, 122 (1990) ("[t]he doctrine of vested rights has generally been described as an application of the constitutionally based common-law rule protecting nonconforming uses").

¹³ Including Section 185-13, of which Subsection 183-13E restricts the parking of commercial vehicles in all residential districts. Chapter 185 was adopted by the Town Board via Local Law No. 4-1991, with an effective date of December 16, 1991.

¹⁴ Section 185-48.6 of the Town Code was added March 3, 2014 by Local Law No. 4-2014.

- Exhibit C:** Current Property Card for the Premises on file with the Code Compliance Department of the Town of Newburgh, which states “Commercial use off Strawridge, No Reply – Eng & Code, See History (04), Concrete Business” in the Notes;
- Exhibit D:** History of DiLemme & Sons from the Corporation and Business Entity Database of the Division of Corporations of the Department of State for New York State, obtained September 29, 2025, reflecting the Company’s incorporation on April 6, 1987;
- Exhibit E:** Copy of Complaint No. 3-36 from the Code Enforcement Office of the Town of Newburgh, dated February 25, 2003, with a handwritten note stating, “[i]n business since 1980” in reference to DiLemme & Sons;
- Exhibit F:** Building Permit No. 0-5732 issued by the Town of Newburgh for the construction of the Workshop, dated June 12, 1984, and closed out September 10, 1984;
- Exhibit G:** Property Report for the Premises from Orange County Image Mate Online, obtained September 29, 2025, stating that its Property Class is “480 – Mult-use bld”;¹⁵
- Exhibit H:** Letter from Michael J. Fogarty, Sole Assessor of the Town of Newburgh, County of Orange, dated March 2007, indicating that the portion of the Premises identified by the Tax ID 3-1-91 (1.0-acre parcel) was assessed under the Property Class of “480 – Multi. Use / Multi. Purpose” as of the Warrant Date of December 28, 2006;¹⁶ and
- Exhibit I:** Excerpts of the Town’s zoning ordinance as found in Chapter 185 of the Town Code of the Town of Newburgh, obtained from eCode on October 1, 2025.

Considering the above, it is evident that DiLemme & Sons’ commercial use of the Premises and the improvements thereon, such as the Workshop, has been ongoing since at least 1984. Therefore, this use is legally non-conforming and permitted to continue its operations indefinitely under Section 185-19 of the Town Code. Accordingly, the Owners and the Company seek an Interpretation confirming that they may continue this use subject to the limitations of Section 185-19A(1)-(5), with the understanding that any future improvements to the Premises or changes in the Company’s operations will be subject to review by your Department.¹⁷

¹⁵ The New York State Department of Taxation and Finance has published its list of Property type classification codes, which states that Code 480 (“Multiple use or multi-purpose”) is for “[a] building readily adaptable, with little physical change, for more than one use or purpose.” Available at the following link: <https://www.tax.ny.gov/research/property/assess/manuals/prclas.htm>.

¹⁶ *Id.*

¹⁷ This Interpretation request does not require review under SEQRA due to its classification as a Type II action. 6 NYCRR 617.5(b)(37) (“interpretation of an existing code, rule or regulation”).



October 3, 2025
Page 5

Thank you for your time and consideration in this matter. Please contact me directly should you have any questions.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "TP", with a long horizontal flourish extending to the right.

Taylor Palmer

Enclosures

Cc: Michael Matsler, Esq., Rider, Weiner & Frankel P.C.
Jim Campbell, Code Compliance Department, Town of Newburgh
Clients
Daniel Conant, Esq., Cuddy & Feder LLP

Exhibit A

This Indenture

Made the 2nd day of
October Nineteen Hundred and Sixty-Four,
Between NICANDRO Di Lemme, residing at R. D. #2, Wallkill, New

York,

party of the first part, and

NICANDRO Di LEMME and FRANCESCA Di LEMME, husband and wife,
residing at R. D. #2, Wallkill, New York, as tenants by the entirety,

parties of the second part,

Witnesseth that the party of the first part, in consideration of -----
Dollar (\$1.00)

lawful money of the United States, & other good & valuable consideration
paid by the party of the second part, does hereby grant and release unto the
parties of the second part, their distributees and assigns forever, all

ALL THAT CERTAIN LOT, PIECE OR PARCEL OF LAND together with the
buildings and improvements thereon, situate, lying and being in the
Town of Newburgh, County of Orange, State of New York, described as
follows:-

BEGINNING at a point in the middle of Bruyn Turnpike or Straw-
ridge Road at corner of lands conveyed to one (Levine) and being North
49° 54' West 355.8 feet from a marked stone at the corner of the road;
thence along the middle of the road North 49° 54' West 130 feet to a
point; thence leaving the middle of the road and thru the lands of
Louis Carfizzi North 50° 24' East 14.6 feet to an iron pipe set near
the side of the road; thence North 50° 24' East, 366.7 feet to an
iron pipe set in a stone wall along the side of the North Plank Road;
thence along the same South 22° 10' East, 130 feet to an iron pipe at
corner of lands conveyed to Levine; thence along his lands South 49°
42' West 291.4 feet to an iron pipe set near the side of the Straw-
ridge Road; thence continuing on the same course 27.8 feet to the
place of beginning, CONTAINING one acre.

The bearings herein are referred to the magnetic needle as it
pointed in 1948. Surveyed in 1963.

SUBJECT to the covenants and restrictions as set forth in B.D.
1651/633.

BEING the same premises described in a deed dated October 16th,
1963 from Louis Carfizzi and Lillian Carfizzi to Nicandro DiLemme
and recorded in B.D. 1651/633 on November 12, 1963.

Subject to a mortgage in the sum of \$12,000, held by the Wallkill
Valley Federal Savings & Loan Association as recorded in the Ulster
County Clerk's Office in Liber of Mortgages 1399 at page 427 on Nov-
ember 12th, 1963 with an unpaid balance of \$11,902.25.

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

To have and to hold the premises herein granted unto the part 1es of the second part, their distributees and assigns forever, as tenants by the entirety.

And said NICANDRO DI LEMME

covenants as follows:

First, That said NICANDRO DI LEMME, 1s

seized of said premises in fee simple, and has good right to convey the same;

Second, That the part 1es of the second part shall quietly enjoy the said premises;

Third, That the said premises are free from incumbrances, except as aforesaid.

Fourth, That the party of the first part will execute or procure any further necessary assurance of the title to said premises;

Fifth, That said NICANDRO DI LEMME

will forever Warrant the title to said premises.

Sixth, That, in Compliance with Sec. 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the party of the first part has hereunto set his hand and seal the day and year first above written.

In Presence of

[Signature]

Nicandro Di Lemme
Nicandro Di Lemme
Francesca Di Lemme
Francesca Di Lemme

State of New York
County of Ulster

On this 2nd day of October
Nineteen Hundred and Sixty-Four
before me, the subscriber, personally appeared

NICANDRO DI LEMME and Francesca Di Lemme
Husband and Wife

to me personally known and known to me to be the same person described in and who executed the within Instrument, and they duly acknowledged to me that they executed the same.

[Signature]
Notary Public in the State of New York
Resident in and for Ulster County
Commission Expires March 31, 1966

[Seal]
FULL COVENANT WITH LIEN COVENANT

NICANDRO DI LEMME

TO

NICANDRO DI LEMME &

FRANCESCA DI LEMME,
H. & W.

Dated, October 2nd 1964

Orange County Clerk's Office, S.S.
Recorded on the 3rd day
of October 1964 at 11:48
o'clock P.M. in Liber 1683
Page 148 at page 148
and Examined
[Signature] Clerk

LIBER 1683 PG 148

R+R:-
HARP & HAFKE
ATTORNEYS AT LAW
BOX 325 - 69 MAIN ST.
NEW PALTZ, N.Y.

Exhibit B

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE
THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE
TYPE IN BLACK INK:
NAME(S) OF PARTY(S) TO DOCUMENT



NICHOLE DILEMME
FRANCESCA DILEMME

SECTION 3 BLOCK 1 LOT 91492

RECORD AND RETURN TO:
(name and address)

TO
NICKY G. DILEMME
JENNIFER M. McHUGH

NICKY G. Dilemme
2201 RT 300
WALKILL NY 12589

THIS IS PAGE ONE OF THE RECORDING

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED ☒ MORTGAGE ☐ SATISFACTION ☐ ASSIGNMENT ☐ OTHER ☐

PROPERTY LOCATION

2089 BLOOMING GROVE (TN)
2001 WASHINGTONVILLE (VLG)
2289 CHESTER (TN)
2201 CHESTER (VLG)
2489 CORNWALL (TN)
2401 CORNWALL (VLG)
2600 CRAWFORD (TN)
2800 DEERPARK (TN)
3089 GOSHEN (TN)
3001 GOSHEN (VLG)
3003 FLORIDA (VLG)
3005 CHESTER (VLG)
3200 GREENVILLE (TN)
3489 HAMPTONBURGH (TN)
3401 MAYBROOK (VLG)
3689 HIGHLANDS (TN)
3601 HIGHLAND FALLS (VLG)
3889 MINISINK (TN)
3801 UNIONVILLE (VLG)
4089 MONROE (TN)
4001 MONROE (VLG)
4003 HARRIMAN (VLG)
4005 KIRYAS JOEL (VLG)

4289 MONTGOMERY (TN)
4201 MAYBROOK (VLG)
4203 MONTGOMERY (VLG)
4205 WALDEN (VLG)
4489 MOUNT HOPE (TN)
4401 OTISVILLE (VLG)
4600 NEWBURGH (TN)
4800 NEW WINDSOR (TN)
5089 TUXEDO (TN)
5001 TUXEDO PARK (VLG)
5200 WALLKILL (TN)
5489 WARWICK (TN)
5401 FLORIDA (VLG)
5403 GREENWOOD LAKE (VLG)
5405 WARWICK (VLG)
5600 WAWAYANDA (TN)
5889 WOODBURY (TN)
5801 HARRIMAN (VLG)

CITIES

0900 MIDDLETOWN
1100 NEWBURGH
1300 PORT JERVIS
9999 HOLD

NO PAGES 4 CROSS REF.
CERT. COPY ADD'L X-REF.
MAP# PGS.

PAYMENT TYPE: CHECK ☒
CASH ☐
CHARGE ☐
NO FEE ☐

Taxable
CONSIDERATION \$ 250,000.00
TAX EXEMPT

Taxable
MORTGAGE AMT. \$
DATE

MORTGAGE TAX TYPE:

(A) COMMERCIAL/FULL 1%
(B) 1 OR 2 FAMILY
(C) UNDER \$10,000
(E) EXEMPT
(F) 3 TO 6 UNITS
(I) NAT.PERSON/CR. UNION
(J) NAT.PER-CR.UN/1 OR 2
(K) CONDO

DONNA L. BENSON
ORANGE COUNTY CLERK

RECEIVED FROM:

Hill - n - Dale

RECORDED/FILED
03/02/2004/ 13:27:40
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY

FILE # 20040028927
DEED / BK 11405 PG 1587
RECORDING FEES \$2.00
0
TTX# 003522 TRANS TAX 1,000.
Receipt#231995 linda



Bargain and Sale Deed, with Covenant against Grantor's Acts – Individual

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

DEED made this 26th day of FEBRUARY 2004 BETWEEN:

NICANDRO DILEMME & FRANCESCA DILEMME, his wife, residing
at 16 Hidden View Drive, Newburgh, NY 12550
party of the first part, and

NICKY G. DILEMME & JENNIFER M. McHUGH, residing at 2201
Route 300, Wallkill, NY 12589, as Joint Tenants with the Right of
Survivorship
party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN DOLLARS
lawful money of the United States and other valuable consideration paid by the party of
the second part, does hereby grant and release unto the party of the second part, the
heirs or successors and assigns of the party of the second part forever,

ALL that land with the buildings and improvements thereon situate commonly known as
2201 Route 300, Wallkill, NY 12589, identified on the Town of Newburgh tax map as
section 3 block 1 lot 91 & 92, and being more particularly described in an attachment
marked "SCHEDULE A".

SUBJECT to all agreements, covenants, restrictions, conditions, and easements of
record.

BEING and intended to be the same premises conveyed to the grantor by two (2)
deeds, as follows: by deed from Nicandro DiLemme dated 10/2/64 and recorded
10/5/64 in Liber 1683 cp 147, and by deed from Louis Carfizzi and Lillian Carfizzi dated
5/18/65 and recorded 5/20/65 in Liber 1713 cp 33.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to
any streets and roads abutting the above described premises to the center lines thereof,
TOGETHER with the appurtenances and all the estate and rights of the party of the first
part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the parties of the second
part, the heirs or successors and assigns of the parties of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or
suffered anything whereby the said premises have been encumbered in any way
whatever, except as aforesaid.

HILL-N-DALE ABSTRACTERS, INC.

20 SCOTCHTOWN AVENUE

P.O. BOX 547

GOSHEN, NEW YORK 10924

(845) 294-5110

FAX (845) 294-9581

Schedule A Description

Title Number HN 33438

Policy Number: 5412-3296527

Page 1

PARCEL I

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange, State of New York, described as follows:

BEGINNING at a point in the middle of Bruyn Turnpike or Strawridge Road at corner of lands conveyed to one (Levine) and being North 49 degrees 54' West 355.8 feet from a marked stone at the corner of the road; thence along the middle of the road North 49 degrees 54' West 130 feet to a point; thence leaving the middle of the road and thru the lands of Louis Carfizzi North 50 degrees 24' East 14.6 feet to an iron pipe set near the side of the road; thence North 50 degrees 24' East, 366.7 feet to an iron pipe set in a stone wall along the side of the North Plank Road; thence along the same South 22 degrees 10' East, 130 feet to an iron pipe at corner of lands conveyed to Levine; thence along his lands South 49 degrees 42' West 291.4 feet to an iron pipe set near the side of the Strawridge Road; thence continuing on the same course 27.8 feet to the place of beginning, CONTAINING one acre.

THE bearings herein are referred to the magnetic needle as it pointed in 1948. Surveyed in 1963.

PARCEL II

ALL that certain piece, parcel or lot of land, situate, lying and being in the Town of Newburgh, County of Orange and State of New York, bounded and described as follows:

BEGINNING at a point in the middle of Bruyn Turnpike at corner of lands conveyed by grantors to grantee by deed dated October 16, 1963; thence along the middle of Bruyn Turnpike North 49 degrees 54' West 24.4 feet; thence leaving the turnpike and thru the lands of Louis Carfizzi, North 50 degrees 26' East 24.6 feet to an iron bar set near the side of the road; thence North 50 degrees 26' East, 368.6 feet to an iron pipe set in the stone wall along the side of the North Plank Road; thence along the same South 22 degrees 10' East, 25 feet to an iron pipe at corner of lands now of DiLemme; thence along the same South 50 degrees 24' West 366.7 feet to an iron pipe near the side of Bruyn Turnpike; thence continuing on the same course 14.6 feet to the place of beginning, containing 0.21 of an acre more or less, as surveyed in 1965.

AND the party of the first part, in compliance with Section 13 of the New York Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

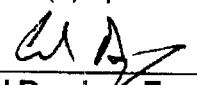

NICANDRO DILEMME


FRANCESCA DILEMME

STATE OF NEW YORK)
COUNTY OF ORANGE)

SS:

On the 26th day of FEBRUARY 2004 before me, the undersigned, a Notary Public in and for said State, personally appeared **NICANDRO DILEMME & FRANCESCA DILEMME**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity, and that by his/her/their signature on the instrument, the individual(s), or the person(s) upon behalf of which the individual(s) acted, executed the instrument.



Carl Darrigo, Esq.
Notary Public, State of New York
Qualified in Orange County
Reg. No.: 02DA5069651
My Commission Expires 11/25/2006

Exhibit C

Jeed: 3/2/04 L P
11405 1597

LEGAL DESCRIPTION

1.20 AC. 11/24/07

OWNERSHIP & MAILING ADDRESS

Dilemme, Nicky G. & Jennifer M.
P.O. Box 10355

Newburgh NY 12550

PROPERTY IDENTIFICATION

334600

3

1

912

SWIS

S

B

L

SUFFIX

4801210

01 OF 01

E0594176

N1003781

CLASS CODE

CARD NUMBER

GRID COORDINATE

PROPERTY ADDRESS

2201

RECORD OF OWNERSHIP

Dilemme Nicardoa & Francesca

MEASURED BY: DATE

LISTED BY: DATE

SOURCE: 1-OWNER 2-SPOUSE 3-TENANT
4-OTHER 5-ESTIMATE 6-REFUSAL

LAND DESCRIPTION		VALUATION	VALUATION	UNIT	DEPTH	ADJUSTED	INFLUENCE		LAND
D NONE		FRONTAGE	DEPTH	PRICE	FACTOR	FF PRICE	CODE	%	VALUE
LAND CODES	LOT								
01 - PRIMARY									
02 - SECONDARY									
03 - UNDEVELOPED									
1 - RESIDUAL	SQUARE								
- TILLABLE	FEET		SQ. FT.						
06 - PASTURE			SQ. FT.						
07 - WOODLAND			SQ. FT.						
08 - WASTELAND			SQ. FT.						
09 - MUCK	ACREAGE		ACRES						
10 - WATERFRONT									
11 - ORCHARD									
12 - REAR									
13 - VINEYARD									
14 - WETLAND									
15 - LEASED LAND									
TOTAL		1.21							30400.

ASSESSMENT	19 08	19 09	19	19	19	SPECIAL DISTRICTS
LAND	30400.	30400				SCHOOL 515201
IMPROVEMENTS	52200.	53600				FIRE FD 630
TOTAL	82600.	84000				WATER
EXEMPTION						SEWER
TAXABLE						LIGHT
						PARK
						AMD10

DATE	1 LAND	SALE PRICE	1 UNCONFIRMED	VALIDITY
MO. YR.	2 BLDG.		2 BUYER 4 FEE	1 YES
	3 L&B		3 SELLER 5 AGENT	2 NO
02 04	1 2 3	250,000	1 2 3 4 5	1 2
	1 2 3		1 2 3 4 5	1 2
	1 2 3		1 2 3 4 5	1 2
	1 2 3		1 2 3 4 5	1 2

SITE DESCRIPTION		SITE	PROPERTY CLASS
		NUMBER	(PRCLAS)
NEIGHBORHOOD I.D.			210
ZONING:			21400
01 - NONE 04 - FARM 07 - MIXED			
02 - SINGLE RES. 05 - COMMERCIAL 08 - GOVERNMENT			
03 - MULTI RES. 06 - INDUSTRIAL			
TOPOGRAPHY RATING: 1-GOOD 2-FAIR 3-POOR 4-VERY POOR			
VIEW: 1-DETRIMENTAL 2-TYPICAL 3-ENHANCING			
LAYOUT (FARMS ONLY) 1-POOR 2-AVERAGE 3-GOOD			
FLOOD RATING: 1-ALWAYS 2-MIXED 3-OFTEN 4-SOME 5-NEVER			
MUCK: 1 2 3 4			
SITE ELEVATION: 1-BELOW GRADE 2-LEVEL 3-ABOVE GRADE			
DWELLING SETBACK: NEAREST 10 FEET			
ROAD: 1-NONE 2-UNIMPROVED 3-IMPROVED			
WATER: 1-NONE 2-PRIVATE 3-COMM/PUBLIC			
SEWER: 1-NONE 2-PRIVATE 3-COMM/PUBLIC			
OTHER UTILITIES: 1-NONE 2-GAS 3-ELECTRIC 4-GAS AND ELECTRIC			
NEIGHBORHOOD TYPE:			
1-RURAL 2-SUBURBAN 3-URBAN 4-COMMERCIAL			
SITE DESIRABILITY: 1-INFERIOR 2-TYPICAL 3-SUPERIOR			
LOT LANDSCAPING: 1-EXCELLENT 2-GOOD 3-FAIR 4-POOR 5-NONE			
DRIVEWAY: 1-NONE 2-UNIMPROVED 3-IMPROVED			
FRONTING TRAFFIC: 1-HEAVY 2-MEDIUM 3-LIGHT			

BUILDING PERMIT RECORD			
DATE	TYPE	AMOUNT	NUMBER
MO. YR.	1 DEMOL 2 ADDN.		

RESIDENCE DESCRIPTION

STYLE: 01
01 RANCH 05 CONTEMPORARY 11 LOG CABIN
02 RAISED RANCH 07 MANSION 12 DUPLEX
03 SPLIT LEVEL 08 OLD STYLE 13 BUNGALOW
04 CAPE COD 09 COTTAGE 14 OTHER
05 COLONIAL 10 ROW 15 TOWN HOUSE

NUMBER OF STORIES 1.0

EXTERIOR WALLS:
1 WOOD/FRAME 4 COMPOSITION 7 STONE
2 BRICK 5 CONCRETE
3 ALUM/VINYL 6 STUCCO 02

AGE: YEAR BUILT 1964
REMODELED 1972
EFFECTIVE YR BUILT

ROOMS BED 3 BATH 1.5
FAMILY 1 TOTAL 6

BASEMENT:
1 PIERS/SLAB 2 CRAWL 3 PARTIAL 4 FULL
BASEMENT GARAGE CAPACITY 4

HEAT TYPE:
1 NO CENTRAL 2 HOT AIR
3 STEAM/HOT WATER 4 ELECTRIC 3

FUEL TYPE:
1 NONE 3 ELECTRIC 5 WOOD 7 COAL
4 OIL 6 SOLAR 4

CONDITIONING: 1 YES 0

PLUMBING: 1 YES 1

NUMBER OF KITCHENS: 1
STYLE OF KITCHEN: 1
KITCHEN QUALITY: 1
STYLE OF BATH: 1
BATH QUALITY: 1
STYLE: 1 OLD 2 SEMI-MODERN 3 MODERN
QUALITY: 1 POOR 2 AVERAGE 3 GOOD

OTHER FACTORS:
MASONARY TRIM (SF) 1 FIREPLACES 1
STONE/BRICK 1 YES 0

ATTACHED IMPROVEMENTS

STR. CODE	MOD. CODE	U	MEASURE 1	MEASURE 2	QUAN. TITY	GR. **	YEAR BUILT	RATE	C	FUNC. OBSO	TOTAL
RP1		3	900	/	01		1964		3		8
RP2		3	112	/	01		1997		4		
RP1		3	540	/	01		1997		4		
FC1		2	12	30	01		2002		4		
LP3		3	568	/	01		?		4		
RP1		3	420	/	01		2007		4		

INTERIOR CONDITION 4
EXTERIOR CONDITION 4
1 POOR 2 FAIR 3 NORMAL
4 GOOD 5 EXCELLANT

COST FACTORS:
GRADE 1+ GRADE ADJ. 10
PERCENT GOOD 97
FUNCTIONAL/ECONOMIC OBSOLESCENSE
CDU (EX. VG. G. AV. P. VP. UN)

LIVING AREA: FIRST FLOOR (SF) 1512
SECOND FLOOR (SF)
ADDITIONAL FLOOR (SF)
HALF STORY FINISHED (SF)
HALF STORY UNFINISHED (SF)
THREE QUARTER STORY FIN. (SF)
THREE QUARTER STORY UNFIN. (SF)
FINISHED BASEMENT (SF) 580
FINISHED ATTIC (SF)
FINISH OVER GARAGE (SF)
UNFINISHED ROOM (SF)
TOTAL LIVING AREA (SF) 2092
UNFINISHED ATTIC (SF)
RECREATION ROOM (SF)

NOTES:

Commercial!
15% off 500,000
(No Reply - Eng. Cost
See History (04)
Generate Business

(wood stove insert)

BASE PRICE
PLUMBING
BASEMENT
BSMT FINISH
ATTIC
HEATING/AC
TOTAL BASE
GRADE ADJ.
TOTAL
DEPRECIATION
TOTAL
ATT. IMPROV.
DET. IMPROV.
TOTAL
FACTOR UPDATE
TOTAL

DETACHED IMPROVEMENTS

STR. CODE	MOD. CODE	U	MEASURE 1	MEASURE 2	QUAN. TITY	GR. **	YEAR BUILT	RATE	C	FUNC. OBSO	TOTAL
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											

• UNITS: 1 QUANTITY 2 DIMENSIONS 3 SQUARE FEET 4 DOLLARS (MS1 ONLY)
† CONDITION: 1 POOR 2 FAIR 3 NORMAL 4 GOOD 5 EXCELLENT
** GRADE: A EXPENSIVE B GOOD C AVERAGE D ECONOMY E MINIMUM

(4) Current

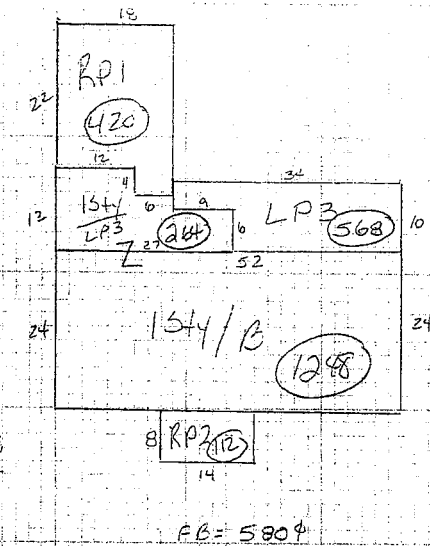


Exhibit D



Department of State

Division of Corporations

Entity Information

[Return to Results](#)[Return to Search](#)

Entity Details

ENTITY NAME: DI LEMME & SONS, INC.

DOS ID: 1160191

FOREIGN LEGAL NAME:

FICTITIOUS NAME:

ENTITY TYPE: DOMESTIC BUSINESS CORPORATION

DURATION DATE/LATEST DATE OF DISSOLUTION:

SECTION OF LAW: -

ENTITY STATUS: ACTIVE

DATE OF INITIAL DOS FILING: 04/06/1987

REASON FOR STATUS:

EFFECTIVE DATE INITIAL FILING: 04/06/1987

INACTIVE DATE:

FOREIGN FORMATION DATE:

STATEMENT STATUS: CURRENT

COUNTY: ORANGE

NEXT STATEMENT DUE DATE: 04/30/2027

JURISDICTION: NEW YORK, UNITED STATES

NFP CATEGORY:

[ENTITY DISPLAY](#)[NAME HISTORY](#)[FILING HISTORY](#)[MERGER HISTORY](#)[ASSUMED NAME HISTORY](#)

Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

Name: THE CORPORATION

Address: PO BOX 10355, NEWBURGH, NY, UNITED STATES, 12552

Electronic Service of Process on the Secretary of State as agent: Not Permitted

Chief Executive Officer's Name and Address

Name: NICK DILEMME

Address: PO BOX 10355, NEWBURGH, NY, UNITED STATES, 12552

Principal Executive Office Address

Address: 2201 ROUTE 300, WALLKILL, NY, UNITED STATES, 12589

Registered Agent Name and Address

Name:

Address:

Entity Primary Location Name and Address

Name:

Address:

Farmcorpflag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share
NO PAR VALUE	200	\$0.00000



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Department of State Division of Corporations

Entity Name History

[Return to Results](#)[Return to Search](#)

Entity Details

ENTITY NAME: DI LEMME & SONS, INC.**DOS ID:** 1160191**FOREIGN LEGAL NAME:****FICTITIOUS NAME:****ENTITY TYPE:** DOMESTIC BUSINESS CORPORATION**DURATION DATE/LATEST DATE OF DISSOLUTION:****SECTION OF LAW:** -**ENTITY STATUS:** ACTIVE**DATE OF INITIAL DOS FILING:** 04/06/1987**REASON FOR STATUS:****EFFECTIVE DATE INITIAL FILING:** 04/06/1987**INACTIVE DATE:****FOREIGN FORMATION DATE:****STATEMENT STATUS:** CURRENT**COUNTY:** ORANGE**NEXT STATEMENT DUE DATE:** 04/30/2027**JURISDICTION:** NEW YORK, UNITED STATES**NFP CATEGORY:**[ENTITY DISPLAY](#)[NAME HISTORY](#)[FILING HISTORY](#)[MERGER HISTORY](#)[ASSUMED NAME HISTORY](#)

Search

File Date	Document Type	Entity Name	File Number
04/06/1987	CERTIFICATE OF INCORPORATION	DI LEMME & SONS, INC.	B480131-3

Rows per page:

5 ▾

1-1 of 1





Department of State Division of Corporations

Entity Filing History

[Return to Results](#)[Return to Search](#)

Entity Details

ENTITY NAME: DI LEMME & SONS, INC.**DOS ID:** 1160191**FOREIGN LEGAL NAME:****FICTITIOUS NAME:****ENTITY TYPE:** DOMESTIC BUSINESS CORPORATION**DURATION DATE/LATEST DATE OF DISSOLUTION:****SECTION OF LAW:** -**ENTITY STATUS:** ACTIVE**DATE OF INITIAL DOS FILING:** 04/06/1987**REASON FOR STATUS:****EFFECTIVE DATE INITIAL FILING:** 04/06/1987**INACTIVE DATE:****FOREIGN FORMATION DATE:****STATEMENT STATUS:** CURRENT**COUNTY:** ORANGE**NEXT STATEMENT DUE DATE:** 04/30/2027**JURISDICTION:** NEW YORK, UNITED STATES**NFP CATEGORY:**[ENTITY DISPLAY](#)[NAME HISTORY](#)[FILING HISTORY](#)[MERGER HISTORY](#)[ASSUMED NAME HISTORY](#)

Search

File Date	Cert Code	Document Type	Description/Amended Information	Page Count	File Number
04/02/2025	32	BIENNIAL STATEMENT	CHIEF EXECUTIVE OFFICER NAME/ ADDRESS, PRINCIPAL EXECUTIVE OFFICE, SERVICE OF PROCESS	1	250402004237
11/27/2024	32	BIENNIAL STATEMENT	CHIEF EXECUTIVE OFFICER NAME/ ADDRESS, PRINCIPAL EXECUTIVE OFFICE, SERVICE OF PROCESS	1	241127001407
04/06/2021	32	BIENNIAL STATEMENT		1	210406060855
11/23/2020	32	BIENNIAL STATEMENT		1	201123060383
04/25/2013	32	BIENNIAL STATEMENT		1	130425006251
04/26/2011	32	BIENNIAL STATEMENT		1	110426002023
04/14/2009	32	BIENNIAL STATEMENT		1	090414002560
04/16/2007	32	BIENNIAL STATEMENT	CHIEF EXECUTIVE OFFICER NAME/ADDRESS	1	070416002241
05/20/2005	32	BIENNIAL STATEMENT		2	050520002015
04/04/2003	32	BIENNIAL STATEMENT	SERVICE OF PROCESS	2	030404002592
04/25/2001	32	BIENNIAL STATEMENT		2	010425002650
05/03/1999	32	BIENNIAL STATEMENT	CHIEF EXECUTIVE OFFICER NAME/ ADDRESS, PRINCIPAL EXECUTIVE OFFICE, SERVICE OF PROCESS	2	990503002313
04/22/1997	32	BIENNIAL STATEMENT		2	970422002514
06/29/1993	32	BIENNIAL STATEMENT	PRINCIPAL EXECUTIVE OFFICE, SERVICE OF PROCESS	2	930629002343
11/04/1992	32	BIENNIAL STATEMENT	CHIEF EXECUTIVE OFFICER NAME/ ADDRESS, PRINCIPAL EXECUTIVE OFFICE	2	921104002172
04/06/1987	01	CERTIFICATE OF INCORPORATION		0	B480131-3

Rows per page:

1-16 of 16



Department of State

Division of Corporations

Entity Merger History

[Return to Results](#)[Return to Search](#)

Entity Details

ENTITY NAME: DI LEMME & SONS, INC.

DOS ID: 1160191

FOREIGN LEGAL NAME:

FICTITIOUS NAME:

ENTITY TYPE: DOMESTIC BUSINESS CORPORATION

DURATION DATE/LATEST DATE OF DISSOLUTION:

SECTION OF LAW: -

ENTITY STATUS: ACTIVE

DATE OF INITIAL DOS FILING: 04/06/1987

REASON FOR STATUS:

EFFECTIVE DATE INITIAL FILING: 04/06/1987

INACTIVE DATE:

FOREIGN FORMATION DATE:

STATEMENT STATUS: CURRENT

COUNTY: ORANGE

NEXT STATEMENT DUE DATE: 04/30/2027

JURISDICTION: NEW YORK, UNITED STATES

NFP CATEGORY:

[ENTITY DISPLAY](#)[NAME HISTORY](#)[FILING HISTORY](#)[MERGER HISTORY](#)[ASSUMED NAME HISTORY](#)

No merger History result.



Department of State Division of Corporations

Entity Assumed Name History

[Return to Results](#)[Return to Search](#)

Entity Details

ENTITY NAME: DI LEMME & SONS, INC.**DOS ID:** 1160191**FOREIGN LEGAL NAME:****FICTITIOUS NAME:****ENTITY TYPE:** DOMESTIC BUSINESS CORPORATION**DURATION DATE/LATEST DATE OF DISSOLUTION:****SECTION OF LAW:** -**ENTITY STATUS:** ACTIVE**DATE OF INITIAL DOS FILING:** 04/06/1987**REASON FOR STATUS:****EFFECTIVE DATE INITIAL FILING:** 04/06/1987**INACTIVE DATE:****FOREIGN FORMATION DATE:****STATEMENT STATUS:** CURRENT**COUNTY:** ORANGE**NEXT STATEMENT DUE DATE:** 04/30/2027**JURISDICTION:** NEW YORK, UNITED STATES**NFP CATEGORY:**[ENTITY DISPLAY](#)[NAME HISTORY](#)[FILING HISTORY](#)[MERGER HISTORY](#)[ASSUMED NAME HISTORY](#)

No Assumed Name History result.

Exhibit E

CODE ENFORCEMENT OFFICE
TOWN OF NEWBURGH
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550
(914) 564-7810

3/3

NOTICE OF COMPLAINT

TO: DILEMME & SONS
2201 RTE 300
NEWBURGH

DATE: 2/25/ 3

SEC-BLK-LOT: 3-1-91.2

COMPL NO: 3-36

LOCATION: 2201 Route 300

PLEASE TAKE NOTICE, a complaint has been registered against the location described above, in that the above named individual(s) did commit or permit to occur the following offense:

THERE ARE AT LEAST TEN TRUCKS ON PROPERTY. MATERIAL ALL OVER PROPERTY. TRUCKS ARE PARKED ON THE CORNER OF STRAWRIDGE ROAD, CREATING A HAZARD FOR CARS & BUSES TURNING ON ROAD. IS THIS BUSINESS OPERATING OUT OF HOME LEGAL??? THIS IS A AR ZONE

YOU ARE THEREFORE DIRECTED AND ORDERED to contact this office immediately to arrange for an inspection of the above described condition.

Failure to promptly comply with this directive may result in a fine or imprisonment or both

, Code Compliance

3/3 1120
In Business Since 1980. Moving Soon (Site Plan App By
Fall 2003.)

Close
3/3

COPY

Exhibit F

TOWN OF NEWBURGH
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

GERALD F. CANFIELD
CODE COMPLIANCE SUPERVISOR
TELEPHONE: (845) 564-7801
FAX LINE: (845) 564-7802

Permit No: 0-5732

File Date: 06/12/1984
Expire Date: 12/13/1985

BUILDING PERMIT

SEC-BLK-LOT: 3-1-91.2

Permit Fee: \$18.00
C.O. Fee: \$0.00

A permit is hereby given by the Building Department, TOWN OF NEWBURGH, ORANGE COUNTY, N.Y., for the structure described herein:

Owner's Name: DI LEMME, NICANDRO (914)-564-2195
Address: RD#2, BX 300, BOX 119, WALLKILL, NEW YORK

Architect's Name: N/A
Address:

Builder's Name: DILEMME AND SONS (914)-564-2195
Address: RD#2, BOX 119, WALLKILL, NEW YORK, 12589

Location of Structure: ROUTE 300

Material: FRAME No. Stories: 1.0 No. Families: 0

Dim. of Stru.: 30' X 30' No. Bedrooms: 0 No. Toilets: 0

Use of Stru.: 2=CAR GARAGE Dim. of Lot: 1 ACRE

Census Code: 438 No. Bathrooms: 0.0 Heating Plant:

Remarks: COMPLETED CLOSED OUT 9/10/85

Appx. Cost: \$6000.00

1. I am familiar with the Zoning and Building Ordinance of the TOWN OF NEWBURGH, and do hereby agree to abide by them.
2. The information stated above is correct and accurate.

Signature of Applicant

CODE COMPLIANCE DEPARTMENT

IMPORTANT

1. A permit under which no work has commenced within six (6) months after issuance, shall expire by limitation, and a new permit must be secured before work can begin.
2. It is the responsibility of the owner and/or contractor to comply with all applicable town ordinances and to call for the required inspections at least one day in advance.

SEPTIC PERMIT:

Permit No: 0-5732

COPY

Exhibit G

Property Description Report For: 2201 Route 300, Municipality of Newburgh



Status:	Active
Roll Section:	Taxable
Swis:	334600
Tax Map ID #:	3-1-91.2
Property Class:	480 - Mult-use bld
Site:	RES 1
In Ag. District:	No
Site Property Class:	210 - 1 Family Res
Zoning Code:	-
Neighborhood Code:	21400
School District:	Wallkill
Total Assessment:	2025 - \$84,000 2024 - \$84,000
Property Desc:	
Deed Page:	1587
Grid North:	1003810

Total Acreage/Size:	1.20
Land Assessment:	2025 - \$30,400 2024 - \$30,400
Full Market Value:	2025 - \$485,500 2024 - \$407,800
Equalization Rate:	----
Deed Book:	11405
Grid East:	594170

Area

Living Area:	2,092 sq. ft.	First Story Area:	1,512 sq. ft.
Second Story Area:	0 sq. ft.	Half Story Area:	0 sq. ft.
Additional Story Area:	0 sq. ft.	3/4 Story Area:	0 sq. ft.
Finished Basement:	580 sq. ft.	Number of Stories:	1
Finished Rec Room	0 sq. ft.	Finished Area Over Garage	0 sq. ft.

Structure

Building Style:	Ranch	Bathrooms (Full - Half):	1 - 1
Bedrooms:	3	Kitchens:	1
Fireplaces:	1	Basement Type:	Full
Porch Type:	Porch-covered	Porch Area:	112.00
Basement Garage Cap:	1	Attached Garage Cap:	900.00 sq. ft.
Overall Condition:	Good	Overall Grade:	Average
Year Built:	1964	Eff Year Built:	1971

Owners

Nicky G DiLemme	Jennifer M McHugh
P.O. Box 10355	2201 St Rte 300
Newburgh NY 12550	Wallkill NY 12589

Sales

No Sales Information Available

Utilities

Sewer Type:	Private	Water Supply:	Private
Utilities:	Electric	Heat Type:	Hot wtr/stm
Fuel Type:	Oil	Central Air:	No

Improvements

Structure	Size	Grade	Condition	Year
Patio-concr	544.00 sq ft	Average	Normal	1998
Gar-1.0 att	900.00 sq ft	Average	Good	1964
Porch-coverd	112.00 sq ft	Average	Good	1997
Shed-machine	300.00 sq ft	Average	Good	2002
Porch-open/deck	18 x 22	Average	Good	2007

Land Types

Type	Size
Primary	1.00 acres
Residual	0.20 acres

Special Districts for 2025

Description	Units	Percent	Type	Value
AM010-Newburgh Ambulance	0	0%		0
FD030-Orange 1k fire	0	0%		0

Special Districts for 2024

Description	Units	Percent	Type	Value
AM010-Newburgh Ambulance	0	0%		0
FD030-Orange 1k fire	0	0%		0

Exemptions

Year	Description	Amount	Exempt %	Start Yr	End Yr	V Flag	H Code	Own %
------	-------------	--------	----------	----------	--------	--------	--------	-------

Taxes

Year	Description	Amount
2025	County	\$2,634.32
2025	School	\$7,595.99
2024	County	\$2,607.84
2024	School	\$6,949.92

*** Taxes reflect exemptions, but may not include recent changes in assessment.**

Exhibit H

Tax Map No. 3-1-91.2

Dilemme Nicky G & Jennifer M McHugh

P.O. Box 10355

Newburgh NY 12550

You are hereby notified in accordance with the requirements of section 26-a of the Tax Law that the assessed valuation for tax purposes on the real property described below, owned by you, has been fixed for the current year at \$ 82,600, that the assessed valuation of such property on the last preceding assessment roll was \$, and that the assessment this year represents an increase ☐ decrease ☐ \$.

New Parcel: Creation of 1.2 acre parcel with parcel combination per owners request.

SOLE ASSESSOR
MICHAEL J. FOGARTY, IAO
Town of Newburgh, County of Orange

Dated, March, 2007

If you have any questions or grievance concerning the above change, you may telephone the Assessors Office at 564-4550, or come in and pick up an Assessment Appeal Procedure Booklet.

Last day of grievance — Fourth Tuesday in May

COPY

MAKE CHECKS PAYABLE TO:
RECEIVER OF TAXES
1496 ROUTE 300
NEWBURGH, NY 12550

TO PAY IN PERSON
MON-FRI 8:30AM-4:30 PM
SAT JAN 27, 9AM - 1 PM
PHONE 845-564-4553
Mary Lou Venuto-Rec of Taxes

PROPERTY ADDRESS & LEGAL DESCRIPTION
Address: ROUTE 300
Town of: NEWBURGH Roll Sect. 1
Bank Code:
Property Class Name: 480 - Multi. Use / Multi. Purpose
Parcel Dimensions: Frontage = 130 Depth = 366.7
School: 334600 -
Est State Aid: COUNTY: 73,844,928
TOWN: 255,000

334600 / 3--1-91

DILEMME NICKY G
MCHUGH JENNIFER M
2201 ST RTE 300
WALLKILL, NY 12589

PROPERTY TAXPAYER'S BILL OF RIGHTS

Assessor estimates the FULL MARKET VALUE of property as of 7/1/2005: \$252,923
The ASSESSED VALUE of this property as of 7/1/2006 was: \$82,200
The UNIFORM PERCENT OF VALUE used to establish assessment was: 32.50%
If you feel your assessment is too high, you have the right to seek a reduction in the future.
For further information please ask your Assessor for the booklet "How to File a Complaint on Your Assessment." Please note that the period for filing complaints on the current assessment has passed.

Exemption	Value	TaxPurpose	Full Value Estimate	Exemption	Value	TaxPurpose	Full Value Estimate
-----------	-------	------------	---------------------	-----------	-------	------------	---------------------

PROPERTY TAXES

IF YOU HAVE AN ESCROW ACCOUNT PLEASE FORWARD THIS BILL TO YOUR BANK

Taxing Purpose	Total Tax Levy	% Change From Prior Year	Taxable Value	Tax Rate Per \$1000	Tax Amount
County	RECEIPT \$62,700	13.20	\$82,200	9.118800	\$749.57
Town	PAID TO \$47,790	4.90	\$82,200	4.657900	\$382.88
Highway	\$5,136,140	5.10	\$82,200	3.710400	\$304.99
Orange lk fire	JAN 2 2 2007 \$1,000	2.30	\$82,200	2.632400	\$216.38

RECEIVER OF TAXES
TOWN OF NEWBURGH

IF PAID BY	Penalty %	Amount	Penalty Amt	Amount Due
1/31/2007	0.00	\$1,653.82	0.00	\$1,653.82
2/28/2007	1.00	\$1,653.82	\$16.54	\$1,670.36
3/31/2007	2.00	\$1,653.82	\$34.08*	\$1,687.90

TOTAL TAXES DUE **\$1,653.82**

100% OF YOUR COUNTY PROPERTY TAXES ARE FOR STATE
MANDATED MEDICAID AND SOCIAL SERVICE PROGRAMS
TAXES PAID BY OWN

COPY

MAKE CHECKS PAYABLE TO:
RECEIVER OF TAXES
1496 ROUTE 300
NEWBURGH, NY 12550

TO PAY IN PERSON
MON-FRI 8:30AM-4:30 PM
SAT JAN 27, 9AM - 1 PM
PHONE 845-564-4553
Mary Lou Venuto-Rec of Taxes

PROPERTY ADDRESS & LEGAL DESCRIPTION
Address: ROUTE 300
Town of: NEWBURGH Roll Sect. 1
Bank Code:
Property Class Name: 311 - Res Vacant Land
Parcel Dimensions: Frontage = 25 Depth = 368.6
School: 334600 -
Est State Aid: COUNTY: 73,844,928
TOWN: 255,000

334600 / 3-1-92

DILEMME NICKY G
MCHUGH JENNIFER M
2201 ST RTE 300
WALLKILL, NY 12589

PROPERTY TAXPAYER'S BILL OF RIGHTS

Assessor estimates the FULL MARKET VALUE of property as of 7/1/2005: \$1,231
The ASSESSED VALUE of this property as of 7/1/2006 was: \$400
The UNIFORM PERCENT OF VALUE used to establish assessment was: 32.50%
If you feel your assessment is too high, you have the right to seek a reduction in the future.
For further information please ask your Assessor for the booklet "How to File a Complaint on Your Assessment." Please note that the period for filing complaints on the current assessment has passed.

Exemption	Value	TaxPurpose	Full Value Estimate	Exemption	Value	TaxPurpose	Full Value Estimate
-----------	-------	------------	---------------------	-----------	-------	------------	---------------------

IF YOU HAVE AN ESCROW ACCOUNT PLEASE FORWARD THIS BILL TO YOUR BANK

PROPERTY TAXES

Taxing Purpose	Total Tax Levy	% Change From Prior Year	Taxable Value	Tax Rate Per \$1000	Tax Amount
County	\$112,262,700	13.20	\$400	9.118800	\$3.65
Town	\$6,447,790	4.90	\$400	4.657900	\$1.86
Highway	\$5,136,140	5.10	\$400	3.710400	\$1.48
Orange lk fire	\$921,000	2.30	400	2.632400	\$1.05

RECEIVED OF TAXES
TOWN OF NEWBURGH

TOTAL TAXES DUE **\$8.04**

IF PAID BY	Penalty %	Amount	Penalty Amt	Amount Due
1/31/2007	0.00	\$8.04	0.00	\$8.04
2/28/2007	1.00	\$8.04	\$0.08	\$8.12
3/31/2007	2.00	\$8.04	\$1.16*	\$9.20

100% OF YOUR COUNTY PROPERTY TAXES ARE FOR STATE
MANDATED MEDICAID AND SOCIAL SERVICE PROGRAMS
TAXES PAID BY *[Signature]*

COPY

Exhibit I

Chapter 185

ZONING

ARTICLE I			
Authority and Purposes			
§ 185-1.	Authority.	§ 185-15.1.	Cargo container use for storage.
§ 185-2.	Purposes.	§ 185-16.	Fences and walls.
		§ 185-17.	Corner lots.
		§ 185-18.	Exceptions to district regulations.
ARTICLE II		§ 185-19.	Nonconforming buildings and uses.
Definitions		§ 185-20.	Privately owned utility systems.
§ 185-3.	Definitions; word usage.	§ 185-21.	Buffer strips and screening.
		§ 185-22.	Environmentally sensitive areas.
ARTICLE III			
Zoning Districts and Zoning Map			
§ 185-4.	Establishment of zoning districts.	ARTICLE VI	
§ 185-5.	Zoning Map.	Supplementary Regulations Applicable to Certain Uses	
§ 185-6.	District boundaries.	§ 185-23.	Mobile home courts.
§ 185-7.	Effect of establishment of zoning districts.	§ 185-24.	Education facilities in the Education Facility Overlay District.
§ 185-8.	Overlay districts.	§ 185-25.	Multiple dwellings and townhouses.
ARTICLE IV		§ 185-26.	Cluster developments.
Schedules of District Regulations		§ 185-27.	Hotels, motels and accessory restaurants.
§ 185-9.	Establishment.	§ 185-28.	Motor vehicle service stations, car washes and rental agencies.
§ 185-10.	Utilization of Use Table.	§ 185-29.	Membership clubs.
§ 185-11.	Utilization of Bulk Table.	§ 185-30.	Outdoor storage.
ARTICLE V		§ 185-31.	Stripping or filling of land.
Supplementary Regulations Applicable to All Districts		§ 185-32.	Professional Office Overlay District.
§ 185-12.	Required performance standards.	§ 185-33.	Junkyards and motor vehicle junkyards.
§ 185-13.	Off-street parking and loading facilities.	§ 185-34.	Marinas.
§ 185-14.	Sign regulations.	§ 185-35.	Self-storage centers.
§ 185-14.1.	Sign regulations for shopping centers.	§ 185-35.1.	Route 9W Self-Storage Center Overlay District.
§ 185-15.	Accessory buildings.	§ 185-36.	Quarrying and removal of sand and gravel.

ZONING

ARTICLE XV Exceptions		§ 185-75.	Termination and amortization of nonconforming adult-oriented businesses.
§ 185-64.	Grandfathering clause.	§ 185-76.	Prohibited activities.
ARTICLE XVI Adult-Oriented Businesses		§ 185-77.	Enforcement and penalties.
		ARTICLE XVII Solar Siting	
§ 185-65.	Legislative findings.		
§ 185-66.	Legislative purpose.	§ 185-78.	Purpose and intent.
§ 185-67.	Definitions.	§ 185-79.	Definitions.
§ 185-68.	Prohibition on massage establishments.	§ 185-80.	Applicability.
§ 185-69.	Location of Adult-Oriented Business.	§ 185-81.	Permit required; construction and placement requirements.
§ 185-70.	Separation, lot, bulk and parking requirements.	§ 185-82.	Safety.
		§ 185-83.	Solar farms and solar power plants.
§ 185-71.	Signs and displays.	§ 185-84.	Appeals.
§ 185-72.	Interior and exterior lighting.	§ 185-85.	Building permit fees for solar panels.
§ 185-73.	Live entertainment security.		
§ 185-74.	Nonconforming buildings or lots.	§ 185-86.	Guidelines for future solar access.
		§ 185-87.	Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Newburgh 12-16-1991 by L.L. No. 4-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 71.

Flood damage prevention — See Ch. 109.

Clearing and grading — See Ch. 83.

Subdivision of land — See Ch. 163.

Environmental quality review — See Ch. 100.

- E. Single-family detached dwelling wheelchair ramps. Notwithstanding any other provision of this Chapter, the front yard, rear yard, side yard, building coverage, lot surface coverage and other bulk requirements of this Code shall not apply to wheelchair ramps and appurtenant handrails and grab bars serving a single-family detached dwelling, provided that the distance between the most proximate point of the base of the wheelchair ramp at grade and the nearest edge of pavement of any street shall not be less than 10 feet. [Added 4-5-2004 by L.L. No. 2-2004]

§ 185-19. Nonconforming buildings and uses.

The following provisions shall apply to all buildings and uses existing on the effective date of this chapter, unless otherwise provided, which buildings and uses do not conform to the requirements set forth in this chapter; to all buildings and uses that become nonconforming by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof; and to all conforming buildings housing nonconforming uses.

- A. **Nonconforming uses.** A nonconforming use may continue indefinitely, subject to the following provisions:
- (1) **Alterations.** A nonconforming use shall not be enlarged, extended, reconstructed or restored, except in accordance with Subsection B(2) herein, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.
 - (2) **Displacement.** A nonconforming use shall not be extended to displace a conforming use.
 - (3) **Changes in use.** A nonconforming use shall not be changed to another nonconforming use without a special permit from the Board of Appeals, and then only to a use which, in the opinion of said Board, is of the same or a more restricted nature.
 - (4) **Discontinuance.** A nonconforming use shall not be reestablished if such use has been discontinued for any reason for a period of one year or more or has been changed to or replaced by a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
 - (5) **District changes.** Whenever a zoning district boundary shall be changed so as to transfer an area from one district to another district, the foregoing provisions shall also apply to any nonconforming uses existing therein or to any uses that may become nonconforming thereby.
- B. **Nonconforming buildings.** A nonconforming building or a building housing a nonconforming use shall not be modified in any way described below, except as provided in Subsection C below:
- (1) **Relocation.** A nonconforming building or structure shall not be moved to another location where such building or structure would also be nonconforming, unless such movement would decrease the nonconformity.
 - (2) **Restoration after damage.** A nonconforming building shall not be restored for other than a conforming use after damage of more than 50% from any cause, unless a prior nonconforming use is reinstated within one year of such damage; if the restoration of such building is not completed within said one-year period, any prior nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of the building. No enlargement of a nonconforming building shall be permitted as part of an allowed restoration.
- C. **Nonconformity with bulk requirements.** [Amended 9-23-1998 by L.L. No. 10-1998]

- (1) Maintenance, repair, structural alteration, relocation, reconstruction or enlargement. Normal maintenance and repair, structural alteration, relocation, reconstruction or enlargement of a building which does not house a nonconforming use, but is nonconforming as to district regulations for lot area, lot width, lot depth, front, side or rear yards, building height, lot coverage, habitable floor area or other such dimensional regulation, is permitted if the same does not increase the degree of or create any new nonconformity with such regulations in such buildings.
 - (2) Change in use. A change of use to a conforming use subject to site plan review of the Planning Board of a building which remains nonconforming as to the district regulations for bulk shall not be permitted without an area variance from the Zoning Board of Appeals and site plan approval by the Planning Board in accordance with the requirements of this chapter. All other changes in use of existing sites or buildings to a use subject to site plan review by the Planning Board shall not be permitted without site plan approval, except that for buildings or areas under 2,500 square feet, it shall be the Planning Board's determination as to whether a review by the Planning Board is or is not required. Such determination shall be made by resolution of the Planning Board following a discussion during a scheduled meeting or work session.
 - (3) A building which received a certificate of occupancy on or before January 1, 2007, and which does not house a nonconforming use, but is nonconforming only as to district regulations for additional side or rear yard dimensions pursuant to § 185-18C or buffers pursuant to § 185-21 is permitted to be enlarged so long as the expansion is no closer to the boundary with the residential district than the existing building, the expansion has obtained all required approvals from the Planning Board on or before January 1, 2012, and is subject to buffer requirements imposed by the Planning Board pursuant to § 185-21C(6). Such a building expansion shall not be deemed an increase in the nonconformity of the building. **[Added 3-5-2007 by L.L. No. 1-2007]**
- D. Normal maintenance. Nothing in this chapter shall be deemed to prevent normal maintenance and repair of any building or the carrying out, upon the issuance of a building permit, of major structural alteration or demolition in the interest of public safety. In granting such a permit the Building and Code Enforcement Officer shall state the precise reason why such alteration or demolition was deemed necessary.
- E. Cessation. Each of the nonconforming uses specified below is deemed to jeopardize the safety of neighbors, the orderly, proper development and maintenance of adjacent neighborhoods or the established character and the objectives of the Master Plan of the Town for the district within which such use is located and is, therefore, injurious to the general welfare of the district and the Town. Each such nonconforming use shall be terminated on or before the expiration of the specified period of time after the effective date of this chapter, which period of time is specified for the purpose of permitting the amortization of the remaining value of such use, if any:
- (1) Nonconforming uses of open land.
 - (a) In any district, any preexisting nonconforming use of open land, including but not limited to such uses as borrow pits, dumps, filling of land, fuel tanks, junkyards and motor vehicle junkyards, motor vehicle leasing, motor vehicle sales, off-street parking, outdoor storage of motor vehicles, trailers, building supplies, raw materials, finished products or machinery and equipment, quarrying, removal of sand and gravel, stripping of land and transportation facilities, including truck and bus terminals, may be continued for three years after the effective date of this chapter, provided that, after the expiration of that

period, such nonconforming use shall be terminated. Specifically exempt from this requirement are the following uses: agricultural operations, outdoor storage of farm equipment and cemeteries.

- (b) In any district, any permitted use of open land that is not screened with dense evergreen plantings or an opaque fence according to the requirements of this chapter, including but not limited to such uses as borrow pits, dumps, filling of land, fuel tanks, junkyards and motor vehicle junkyards, motor vehicle leasing, motor vehicle sales, off-street parking, outdoor storage of motor vehicles, trailers, building supplies, raw materials, finished products or machinery and equipment, quarrying, removal of sand and gravel, stripping of land, transportation facilities, including truck and bus terminals, and interchange business district and industrial business district uses adjacent to a residence district may be continued for three years after the effective date of this chapter, provided that, after the expiration of that period, such use with nonconforming screening or buffering shall be terminated unless the Planning Board determines that adequate screening of such use has been provided prior to that time. Specifically exempt from this requirement are the following uses: agricultural operations, outdoor storage of farm equipment and cemeteries.
 - (c) Notwithstanding anything to the contrary herein, new standards and requirements for screening and buffers established by the amendment to this Code enacted as Local Law No. 1 of 2007 shall not apply to existing uses of open land, including but not limited to off-street parking and outdoor storage, which are in conformity with this Code immediately prior to the date of enactment of said local law, and site plans finally approved and filed in accordance with § 185-58 prior to the effective date of said local law, provided such approval has not lapsed. **[Added 3-5-2007 by L.L. No. 1-2007]**
- (2) Nonconforming signs. In any district, any sign not of a type permitted, or of a permitted type but greater than the maximum permitted size, may be continued for a period of one year following the effective date of this chapter, provided that, after the expiration of that period, such nonconforming sign shall be terminated.
 - (3) Individual mobile homes. In any district, any nonconforming use of an individual mobile home on its own lot may be continued after the effective date of this chapter, provided that said mobile home is not replaced by another mobile home.
 - (4) Nonconforming mobile home courts. In any district, any mobile home court not in full conformity with the provisions of § 185-23B of this chapter may be continued for 10 years following the effective date of this chapter, provided that, after the expiration of that period, such nonconforming use shall be terminated unless the mobile home court has been brought into full conformity with the provisions of § 185-23B of this chapter in all respects except area of the overall parcel of the mobile home court.
 - (5) Nonconforming petroleum bulk storage facilities. In any district, any petroleum bulk storage facility not in full conformance with the provisions of Article IV, Schedules of District Regulations, of this chapter may be continued for five years following the effective date of this chapter, provided that, after the expiration of that period, such nonconforming use shall be terminated unless the facility has been brought into full conformity with the provisions of § 185-39 of this chapter and the Zoning Board of Appeals has granted a variance for any noncompliance with Article IV, Schedules of District Regulations, of this chapter.

TOWN OF NEWBURGH

Crossroads of the Northeast

21 Hudson Valley Professional Plaza
Newburgh, NY 12550

CODE COMPLIANCE DEPARTMENT
TELEPHONE 845-564-7801
FAX LINE 845-564-7802

October 28, 2025

Via e-mail (tpalmer@cuddyfeder.com) and First Class Mail

Taylor M. Palmer, Esq.
Cuddy & Feder, LLP
445 Hamilton Avenue, 14th Floor
White Plains, New York 10601

Re: Request for Interpretation
DiLemme & Sons, Inc.
Premises: 2201 State Route 300, Town of Newburgh, New York
Tax ID: 3-1-91.2

Dear Mr. Palmer:

This letter serves as the decision of the Town of Newburgh ("Town") Code Compliance Department (the "Department") on the request for interpretation which you submitted on behalf of Nicky DeLemme and Jennifer McHugh (the "Owners") and DiLemme & Sons, Inc. ("DiLemme & Sons") by letter dated October 3, 2025. You request an interpretation that DiLemme & Sons use of the above referenced Premises located in the Town's Agricultural Residence ("AR") Zoning District for its operations is legally non-conforming and permitted to continue pursuant to Section 185-19 of the Town of Newburgh Zoning Code, subject to the limitations of Section 185-19A(1)-(5). Your letter represents that this use of the Premises commenced in the early 1980's, that a "workshop" was constructed in 1984, that DiLemme & Sons was incorporated in 1987 and that the use has continued since then. Assuming the representations contained in your letter are accurate, the Department nevertheless finds that the non-conforming use is not entitled to the protections of Code Section 185-19.

Code Section 185-19(A) provides

"The following provisions shall apply to all buildings and uses existing on the effective date of this chapter, unless otherwise provided, which buildings and uses do not conform to the requirements set forth in this chapter; to all buildings and uses that become nonconforming by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof; and to all conforming buildings housing nonconforming uses.

A. Nonconforming uses. A nonconforming use may continue indefinitely, subject to the following provisions:

- (1) Alterations. A nonconforming use shall not be enlarged, extended, reconstructed or restored, except in accordance with Subsection B(2) herein, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.
- (2) Displacement. A nonconforming use shall not be extended to displace a conforming use.
- (3) Changes in use. A nonconforming use shall not be changed to another nonconforming use without a special permit from the Board of Appeals, and then only to a use which, in the opinion of said Board, is of the same or a more restricted nature.
- (4) Discontinuance. A nonconforming use shall not be reestablished if such use has been discontinued for any reason for a period of one year or more or has been changed to or replaced by a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
- (5) District changes. Whenever a zoning district boundary shall be changed so as to transfer an area from one district to another district, the foregoing provisions shall also apply to any nonconforming uses existing therein or to any uses that may become nonconforming thereby."

Code Section 185-3 defines "Nonconforming Building or Use" as follows:

"A use or building, whether of a building or land or both, which does not conform to the requirements respecting permitted uses or coverage as set forth in this chapter for the district in which it is situated but which lawfully existed prior to the enactment of a zoning law or any revision or amendment thereto which would prohibit the use and which is maintained after the effective date thereof although it does not conform to the use or coverage regulations of the district in which it is located." Underlining added.

The Town first adopted a Zoning Ordinance in 1956 and subsequently amended and codified its Zoning through various ordinances and local laws. The Town's current Zoning Code was enacted by Local Law No. 4 of 1991, and the Zoning text and map have been amended from time to time by local laws adopted by the Town Board since that enactment. While prior Zoning laws were repealed by Local Law No 4 of 1991, the repeal did not affect any offense committed prior to the repeal, the same remaining subject to enforcement and prosecution pursuant to Code Section 185-63:

"The Zoning Law of the Town of Newburgh as revised and amended by the Town Board on August 19, 1987, effective September 17, 1987, and any and all amendments thereto, is hereby repealed. Such repeal shall not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been effected."

Underlining added.

Accordingly, any use which was commenced in violation of the Town's Zoning law prior to the effective date of Local Law No. 4 of 1991 is not considered by the Department as one which "lawfully existed" prior to the enactment.

The AR District was established by Town of Newburgh Local Law No. 4 of 1974. The Local Law included a Zoning Map setting forth the boundaries of the Town's zoning districts including those of the AR District (See Exhibit A) and a table setting forth "Permitted Uses," "Uses Subject to Site Plan Review by the Planning Board" and allowed "Accessory Uses." (See Exhibit B which also includes the R-1 and R-2 residential zoning district tables as certain of their permitted uses were incorporated by reference into the AR District table) The Premises and the two preceding lots which were combined to form the Premises have been within the boundaries of the AR District since the District's formation.

The business use of the Premises which you represent was commenced in the early 1980's and continued by DiLemme & Sons does not fall within any of the Permitted Uses and Uses Subject to Site Plan Review listed in the AR District table of Local Law No 4 of 1974. See Exhibit B. Furthermore, it does not fall within that Local Law's definition of "Home Occupation," an allowed accessory use for single family dwellings in that table as it is not a use customarily conducted within a dwelling. See the definition contained in Section 30.21 of Local Law No. 4 of 1974:

"Home occupation" shall mean any gainful occupation or profession customarily conducted within a dwelling the residents thereof, clearly secondary to the use of the dwelling for living purposes, and which does not change the character of the structure as a residence. Said activity shall not have more than one (1) non-resident employee working on the premises at any one time and shall not occupy more than one half (1/2) of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used. Permissible home occupations include, but are not limited to, the following: art studio; dressmaking; offices for a clergyman, lawyer, physician, dentist, architect, engineer, real estate agent or accountant; teaching with musical, dancing and other instruction limited to one (1) pupil at a time. However, home occupations shall not be construed to include uses such as the following: clinic or hospital, barber shop or beauty parlor, restaurant, animal hospital or commercial animal breeding."

Additionally, Building Permit No. 0-5732 dated June 12, 1984 issued by the Department, on its face, was for a two car garage, a permitted accessory use in the AR District. It was not issued for a "workshop" for your client's business as stated in your submission. The business use of the Premises was illegal when instituted and remains so.

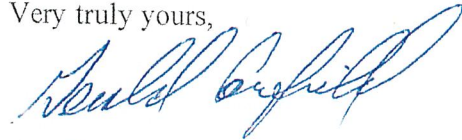
The Department's records indicate that an Order to Remedy dated October 28, 1994 for the business use was issued with remedial action noted with respect to the removal of commercial vehicles; the Notice of Complaint 3-36 dated February 5, 2003 included as Exhibit E to your letter application was issued with notes indicating there was representation that the business use would be moved from the Premises; and the pending Notice of Violation and Order

to Remedy dated September 13, 2024 were also duly served. The Department has been consistent in its position that your clients' business use of the Premises is illegal. It has not induced that use by issuing permits or certificates for the use. While there have obviously been delays in enforcement, those delays have worked to your clients' benefit by delaying the need for relocation.

While we have accepted the representations contained in your letter for purposes of this decision, it should also be noted that neighbors have stated that the scale of DiLemme & Sons operations at the Premises has increased over time with regular use of heavy equipment, high volumes of traffic and continuous noise commencing early in the morning having impacts on their residential neighborhood. Section 185-19(A)(1) provides in pertinent part: "nor shall any external evidence of such use be increased by any means whatsoever." Accordingly, even if the business use were determined to be subject to pre-existing, nonconforming use protection, violations of the limitations of Section 185-19(A)(1) would still be at issue.

In conclusion, the Code Compliance Department's interpretation is that business use of the Premises by the Owners and DiLemme & Sons is not a legally non-conforming use permitted to continue pursuant to Section 185-19 of the Town of Newburgh Zoning Code.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Gerald Canfield", is written over the typed name.

Gerald Canfield,
Code Compliance Supervisor

cc: Supervisor
Town Board
Attorney

EXHIBIT A

ZONING MAP

AR	AGRICULTURE RESIDENTIAL
R1	RESIDENTIAL
R2	RESIDENTIAL
R3	RESIDENTIAL
B	BUSINESS
IB	INTERCHANGE BUSINESS

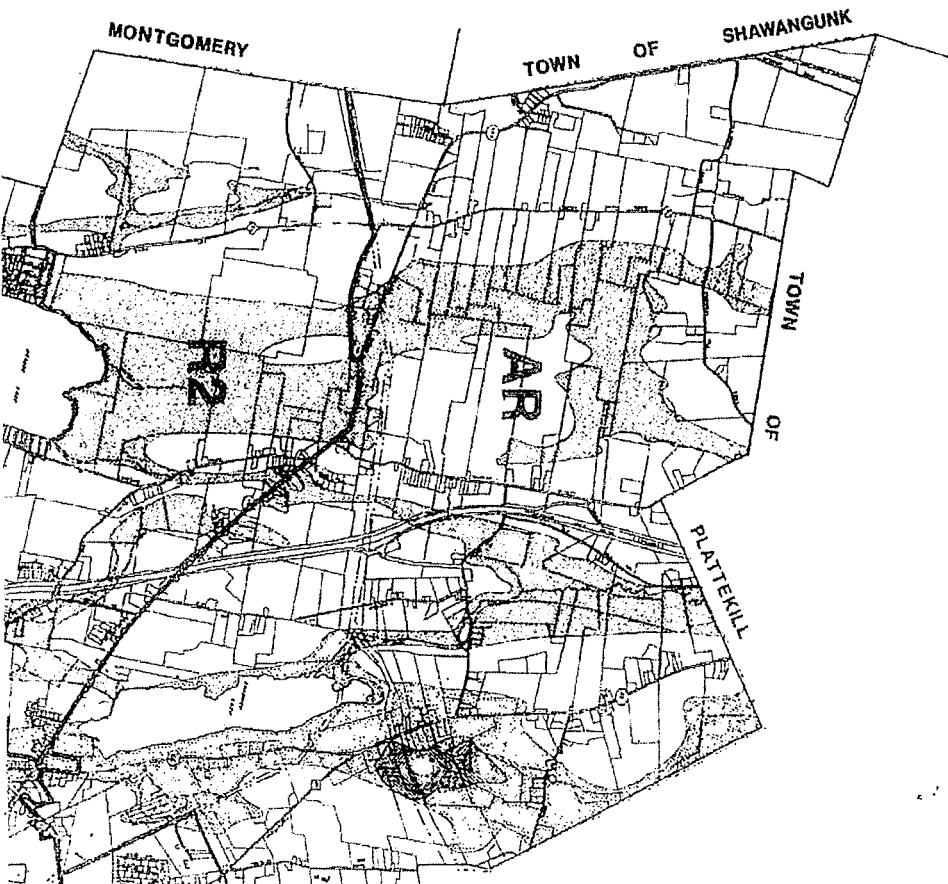


EXHIBIT B

§ 30.41

MUNICIPAL CODE

ZONING

§ 30.4

DIST.

ACCESSORY USES

PERMITTED USES

USES SUBJECT TO SITE PLAN REVIEW BY THE PLANNING BOARD

LOT AREA

LOT WIDTH

LOT DEPTH

FRONT YARD

REAR YARD

ONE SIDE

BOTH SIDES

LIVABLE DWEL. AREA/ UNITS LOT

MAXIMUM PERMITS

% COVERAGE

HEI

AR (Cont'd)	5. Veterinarian's offices, provided that all dogs are kept within a totally enclosed & suitably ventilated building between the hours of sundown and sunrise.	2. Mobile home courts in accordance with Sub. A of § 30.52.	10' acres	100'	125'	40'	30'	30'	60'				15	3
B	1. Outdoor vending machines. 2. Manufacturing, cleaning or processing of goods where the product will be sold at the premises. 3. Non-flashing signs related to an establishment located on the same lot, provided a. Illumination shall be diffused or indirect and so as not to reflect direct rays of light into adjacent residential districts or the public way.	1. Same uses and as regulated by Items 1 through 3 of the R-2 District. 2. Retail and services stores. 3. Business and professional offices. 4. Eating and drinking places. 5. Clubhouses without outdoor recreation facilities. 6. Funeral homes	1. Retail and service stores, professional offices, eating & drinking places when such buildings & structures exceed a floor area of 5600 sq. ft.										40 w/out cent. sewer & water systems 50 with cent sewer & water system	3

MUNICIPAL CODE

ZONING

MAXIMUM PERMITTED

DIST.

ACCESSORY USES

PERMITTED USES

USERS SUBJECT TO SITE
PLAN REVIEW BY THE
PLANNING BOARD

LOT AREA LOT WIDTH LOT DEPTH FRONT YARD REAR YARD SIDE YARD BOTH SIDES DWELLING L.V.A. DWEL. FL. AREA/ UNITS LOT COVERAGE BLDG. HEIGHT

R-1	1. Home occupations	1. Single family dwellings not to exceed one dwelling units per lot.	2. Two family dwellings not to exceed two dwelling units per lot.	1. Conversion of existing dwellings for multiple family use provided that the exterior of such dwellings shall not be enlarged or extended nor altered except as required for compliance with the multiple residence law.	40,000 sq ft	150'	150'	50'	40'	30'	80'	1500 sq ft	1.0	10	35'
	2. Private garage or carport for not more than four vehicles.			2. Cluster developments for single family detached dwellings in accordance with Subd. C of § 30.52.											
	3. Garden house, tool shed, wading or swimming pool not operated for gain, provided that pools in excess of 200 sq ft shall be located at least 10 ft from any lot line and enclosed by a suitable fence with a min. height of four feet.			3. Membership clubs not operated for gain, providing recreational and clubhouse facilities including:	10 acres	300'		200'	200'	400'	200'			10	
	4. Signs, limited to: a. one non-illuminated name plate or professional sign with an area not greater than 2 sq ft. b. One illuminated announcement sign for schools, churches and other public or semi-public institutions with an area not greater than 12 sq ft located at least 15 ft from any street line.								(as measured from the boundaries of the site)			1500, sq ft	1.0	10	
	5. Keeping not more than five dogs and/or cats over six months of age.														

MUNICIPAL CODE

ZONING

MAXIMUM PERMITTED

DIST.

ACCESSORY USES

PERMITTED USES

USES SUBJECT TO SITE PLAN REVIEW BY THE PLANNING BOARD

LOT AREA

LOT WIDTH

LOT DEPTH

FRONT YARD

REAR YARD

BOTH SIDES

FL. AREA/ DWELLING

UNITS LOT

ACRE

% COVERAGE

BLDG. HEIGHT

R-1 (cont'd)	6. Keeping not more than two domestic animals, other than dogs or cats nor more than 25 fowl, provided that the lot contains an area of at least two acres.	7. Separate living quarters within the permitted use structure for persons employed on the premises.	3. Municipal buildings & uses.	5. Public utility structures and rights-of-way.	4. Places of worship and related parish houses, seminars, convents, dormitories and related uses.	'the sale of food and drink in accordance with Subd. F of § 30.52.
R-2	1. Same as items 1 through 7 above. 2. Off-street parking for commercial vehicles operated by the occupants of the permitted residence when such vehicles are housed in a garage or carport. 3. Off-street parking, not under cover, for not more than one commercial vehicle not over 25 feet in length.	1. Same as item 1 above a. without central sewer system b. with central sewer and town water system. 2. Same as item 2 above a. without central sewer system. b. with central sewer and town water system.	1. Same as item 1 above a. without central sewer system b. with central sewer and town water system.			
			15,000 sq ft			
			30,000 sq ft	125'	150'	
			22,500 sq ft			
			15,000 sq ft per dwelling	150'	150'	
			25 acres	300'		
			100 acres			
				50'	50'	50'
				50'	100'	900 sq ft
						2.5
						15
						3.0
			</			

DIST.	ACCESSORY USES	PERMITTED USES
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USES SUBJECT TO SITE
PLAN REVIEW BY THE
PLANNING BOARD

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100	100

MAXIMUM PERMITTED \$ 30.41

FL. AREA/	UNITS LOT	BLDG
LIVABLE · DWEL. %		

		AREA	WIDTH	DEPTH	YARD	SIDE	SIDES	DWELLING	ACRE	COVERAGE	HEIGHT
R-2 (Cont'd)		4. Same as item 3, R-1 District. a. With outdoor recreational facilities. b. Without outdoor recreation facilities.	10 acres	300'	200'	200'	400'	200'		10	35'
		5. Same as item 4, R-1 Districts.									
		6. Nursery schools for pre-school children.									
		7. Schools for general education including colleges, with related activities.	5 acres	300'	75'						
		8. Hospitals and nursing homes for general medical care.									
		9. Same as item 5, R-1 District.									
R-3	1. Same as the R-2 District	1. Same as item 1, R-1 District. a. Without central sewer system. b. With central sewer and town water system.	15,000 sq ft 12,500 sq ft	100'	125'	40'	40'	15'	30'	900 sq ft 2.0 2.5	25 35'

MUNICIPAL CODE

AGGREGATE USES

USES SURVIV PLAN REVIEW PLANNING BOARD

ZONING

MAXIMUM PERMITTED

MINIMUM REQUIRED

LIVABLE DWEL. UNITS LOT BLDG.

LOT FRONT REAR ONE BOTH SIDE DWELLING ACRE COVERAGE HEIGHT

PERMITTED USES		MINIMUM REQUIRED		MAXIMUM PERMITTED	
1. Home occupations	2. Private garage or carport for not more than four vehicles	1. Single family dwellings not to exceed one dwelling units per lot	2. Two family dwellings not to exceed two dwelling units per lot	1. Single family dwellings not to exceed one dwelling units per lot	2. Two family dwellings not to exceed two dwelling units per lot
1. Home occupations	2. Private garage or carport for not more than four vehicles	1. Single family dwellings not to exceed one dwelling units per lot	2. Two family dwellings not to exceed two dwelling units per lot	1. Single family dwellings not to exceed one dwelling units per lot	2. Two family dwellings not to exceed two dwelling units per lot
3. Garden house, tool shed, wading or swimming pool not operated for gain, provided that pools in excess of 200 sq ft shall be located at least 10 ft from any lot line and enclosed by a suitable fence with a min. height of four feet.					
4. Signs, limited to: a. One non-illuminated name plate or professional sign with an area not greater than 2 sq ft. b. One illuminated announcement sign for schools, churches and other public or semi-public institutions with an area not greater than 12 sq ft located at least 15 ft from any street line.					
5. Keeping not more than five dogs and/or cats over six months of age.					

From: [Dawnmarie Busweiler](#)
To: [Nget, Riddar](#)
Subject: Re: FW: FOIL Request 2025-01026
Date: Friday, December 12, 2025 1:11:13 PM

Good afternoon Riddar,

When you have a chance you, could give me a call at the office (845)564-4554.

Thank you,

Dawnmarie

On Fri, Dec 12, 2025 at 11:50 AM Nget, Riddar <RNget@cuddyfeder.com> wrote:

Hello – I did not include your direct email address on the email below. Thank you!



Riddar Nget
Paralegal
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300 | F 914 761 5372
RNget@cuddyfeder.com
www.cuddyfeder.com

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Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties.

From: Nget, Riddar
Sent: Friday, December 12, 2025 11:48 AM
To: 'foilofficer@townofnewburgh.org' <foilofficer@townofnewburgh.org>; 'Town-clerk@townofnewburgh.org' <Town-clerk@townofnewburgh.org>
Cc: Conant, Daniel <DConant@CUDDYFEDER.COM>
Subject: FOIL Request 2025-01026

Good morning Dawn,

Per our phone conversation yesterday, please let me know if you are still able to send a copy of Local Law #4 of 1974, the 1987 Zoning law, and Local Law #4 of 1991.

Thanks so much!

Riddar

--

Dawnmarie Busweiler

Deputy Town Clerk

Town of Newburgh

1496 Rt. 300

Newburgh, NY 12550

Dawnmarie@townofnewburgh.org

(845)564-4554

From: [Nget, Riddar](#)
To: foilofficer@townofnewburgh.org
Cc: [Conant, Daniel](#)
Subject: RE: FOIL Request 2025-01026 : Completion Letter
Date: Friday, November 7, 2025 11:50:55 AM
Attachments: [CompletionLetter.pdf](#)

Good morning,

Just to clarify, we are requesting all Local Laws concerning the Town's zoning code during the requested period. Please advise if you are able to provide copies of same.

Thank you,

Riddar

From: foilofficer@townofnewburgh.org <foilofficer@townofnewburgh.org>
Sent: Wednesday, October 15, 2025 10:59 AM
To: Nget, Riddar <RNget@cuddydeder.com>
Subject: FOIL Request 2025-01026 : Completion Letter

Riddar Nget
445 Hamilton Ave., 14Th Floor
White Plains, NY 10601

RE: FOIL Reference #2025-01026
 FOIL Documents
 Please see details

**FREEDOM OF INFORMATION (F.O.I.L.)
REQUEST HAS BEEN FILLED**

10/15/2025

Dear Riddar Nget,

The Freedom of Information records request that you submitted to Town of Newburgh as referenced above has been filled.

*All of our zoning codes and minutes are on our
website-townofnewburghny.gov.*

If you have any questions, or require further information, please do not hesitate to contact us.

Sincerely,

Lisa M. Ayers - FOIL Officer
DawnMarie Busweiler - Deputy FOIL Officer

From: foilofficer@townofnewburgh.org
To: rnget@cuddyfeder.com
Subject: FOIL Request 2025-01026 : Acknowledgement Letter
Date: Monday, September 29, 2025 2:52:40 PM
Attachments: [AcknowledgementLetter.pdf](#)

Riddar Nget
445 Hamilton Ave., 14Th Floor
White Plains, NY 10601

RE: FOIL Reference #2025-01026
FOIL Documents
Please see details

RE: In accordance with the New York State Freedom of Information Law ("FOIL"), Public Officers Law, Article 6, Sec. 84 et seq. and Sec. 89.3(b), this office respectfully requests copies of the Town of Newburgh's Zoning Code and all amendments thereto adopted by the Town of Newburgh effective from 1960 to present, along with any resolutions and meeting minutes of any town agencies/boards/commissions related to said amendments.

FREEDOM OF INFORMATION - ACKNOWLEDGEMENT LETTER

09/29/2025

Dear Riddar Nget:

Your FOIL request dated 09/25/2025 was received by the Town of Newburgh on 09/29/2025. The request is being reviewed and we anticipate you will be contacted regarding your request no later than 10/27/2025.

Access to the records, in whole or part, will be determined in accordance with Article 89 section 5 of the Freedom of Information Law.

Once the research has been completed and the requested documents are made available to the Town Clerk's office, we in turn will forward the information via email. However, some information requested, such as full property inspections or property survey's, are too large to be sent by email and will need to be reviewed or picked up in person at the Town Clerk's office. Pursuant to FOIL, a fee of \$.25 per page for photocopies not exceeding 9'x14' will be charged. All other fees will be based on the material requested. You may make an appointment to view the records prior to copying to avoid cumbersome fees.

Thank you in advance for your cooperation. If you have any questions, or require further information, please do not hesitate to contact us.