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February 17, 2026

VIA EMAIL

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: Adjournment Request - Pending 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, and Di Lemme & Sons, Inc. (the "Company," and collectively, the "Applicants"), we respectfully submit this letter and the referenced enclosures in furtherance of their Request for Zoning Determination/Interpretation, and, in the alternative, Applications for Area Variances or a Use Variance (collectively the "Applications"), which Applications are pending before this Board.

As you know, this Board opened the Public Hearing on the Applications at its last meeting on January 22, 2026, at which time the Applicants requested to continue the Public Hearing to prepare responses to the oral statements of several neighbors and obtain copies of historical zoning regulations in effect during the relevant time period (e.g., 1980s). Due to the Applicants' recent receipt of some, though not all, applicable historical zoning codes and the volume of information submitted by a commenter via e-mail on January 28, 2026, we respectfully request that the Public Hearing be adjourned from the Board's February 26th meeting Agenda to its March 26th meeting Agenda so the Applicants may obtain Local Law No. 4 of 1974 and finalize responses to the aforementioned materials.

As previously discussed at the Public Hearing,¹ and as noted in our initial submission,² the Applicants requested copies of the Town's historical zoning codes in effect at the time of the Company's establishment to determine whether the Company's use of the above-referenced premises (the "Premises") is legally nonconforming, either in whole or in part. The Applicants have since continued to follow up on their September 25, 2025 Freedom of Information Law ("FOIL") request for said zoning codes,³ and, as a result of their efforts, only just received three

¹ Please refer to pages 86-87, and 151-52 of the January 22, 2026 Public Hearing meeting minutes.

² Please refer to page 2 and Attachment M of the Applicants' initial submission dated December 26, 2025.

³ *Id.*



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(3) digital files on the afternoon of February 9th, two (2) of which contain relevant codes (Local Law No. 4 of 1987 and Local Law No. 4 of 1991).⁴

The third file received by the Applicants, purportedly containing Local Law No. 4 of 1974, includes only what seem to be excerpts of the Law,⁵ together with several documents related to the adoption of it.⁶ The Applicants left a message informing the Town's FOIL Officers of this the following day, February 10th, and spoke with a FOIL Officer on Friday, February 13th, at which time the Applicants were told that the Town Attorney compiled the materials and that the Officer would inform the Town Attorney of the omission of Local Law No. 4 of 1974.

Local Law No. 4 of 1974 is critical to the initial determination requested of this Board, i.e., whether the Company's use of the Premises was legal in the 1980s, because the Law enacted the Zoning Code governing this time period, including Nicandro DiLemme's formation of the Company and the Company's use of the Premises.⁷ Accordingly, the Applicants respectfully submit that adjourning the Public Hearing to permit the entirety of Local Law No. 4 of 1974 to be entered into the record is appropriate, as its provisions go to the crux of the Applicants' Request for Zoning Determination/Interpretation *and* their request for area variance relief, to the extent it may be necessary.

Furthermore, adjourning the Public Hearing will allow the Applicants to more fully address the materials submitted to this Board by a public commenter on January 28th. The Applicants have worked diligently to respond to all of the materials, but given their volume (46 files) and nature (multimedia),⁸ the Applicants respectfully request additional time to respond to them. This time will also provide the Applicants the opportunity to finish identifying and responding to certain inaccurate comments made at the Public Hearing concerning the Company's use of the Premises.

⁴ Refer to the email from Lisa Ayers to Riddar Nget dated February 9, 2026. See **Exhibit A**.

⁵ Enclosed as **Exhibit B**. Note: the excerpts bear the same sidebar letterhead as those in Exhibit A of the October 28, 2025, Determination Letter prepared by Gerald Canfield ("Donald R. Becker, P.O. Box 11, 185 Grand Street, Newburgh, N.Y. 12550"). See Attachment L of the Applicants' initial submission dated December 26, 2025.

⁶ E.g., the Town Board Resolution Introducing Local Law No. 4 of 1974 and Providing for Public Notice and Hearing, dated March 22, 1974; the Town Board Resolution enacting Local Law No. 4 of 1974, dated April 8, 1974; and the Notice of Adoption of Local Law No. 4 of 1974, dated April 9, 1974.

⁷ Per the October 28, 2025 Determination Letter prepared by Gerald Canfield, "The AR District was established by Town of Newburgh Local Law No. 4 of 1974. ... 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." Refer to Attachment L of the Applicants' initial submission, dated December 26, 2025.

⁸ The public commenter submitted forty-six (46) digital files totaling 1.1 gigabytes, consisting of a letter, aerial images, mobile phone screenshots, and videos.



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In sum, adjourning the Public Hearing would permit the Board to properly assess the merits of the initial determination of the Code Compliance Supervisor, the Applicants' appeal from said determination, and whether the Applicants would require area variance relief or a use variance for the Company's continued use of the Premises.

MATERIALS ENCLOSED:

In further support of the Application and the instant request for a one (1)-month adjournment, enclosed please find a copy of the following materials:

- Exhibit A:** Email from Lisa Ayers to Riddar Nget, dated February 9, 2026; and
- Exhibit B:** Purported excerpts of Local Law No. 4 of 1974 as found in the document entitled "Local Law #4-1974.pdf" attached to the email in **Exhibit A**.

In consideration of the foregoing, the Applicants respectfully request that the Public Hearing be adjourned from the Board's February 26th meeting Agenda, to the Board's March 26th meeting Agenda for continued review and Public Hearing. In the meantime, should Town Staff or the Board have any questions or comments with regard to the foregoing, please do not hesitate to contact me. Thank you for your time and consideration in this matter.

Very truly yours,

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

Taylor M. Palmer

Enclosures

cc: Applicants
David Donovan, Esq., Attorney to the Zoning Board of Appeals
Michael Matsler, Esq., Rider, Weiner & Frankel, P.C.
Daniel Conant, Esq., Cuddy & Feder LLP

Exhibit A

Nget, Riddar

From: Lisa Ayers <town-clerk@townofnewburgh.org>
Sent: Monday, February 9, 2026 3:06 PM
To: Nget, Riddar
Subject: Town of Newburgh FOIL Request Documents
Attachments: Local Law #4-1974.pdf; Local Law No. 4 of 1987.pdf; Local Law No. 4 -1991.pdf

Good Afternoon Riddar,

Thank you for your patience, attached are the documents you requested through FOIL.

Please let me know if you need anything else.

Thanks,
Lisa

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Lisa M. Vance Ayers
Town Clerk
Registrar of Vital Statistics
Town of Newburgh
(845)564-4554
town-clerk@townofnewburgh.org

Exhibit B

LOCAL LAW #4 OF THE YEAR 1974
TOWN OF NEWBURGH

A LOCAL LAW GENERALLY AMENDING AND REVISING THE ZONING LAW OF
THE TOWN OF NEWBURGH.

BE IT ENACTED by the Town of Newburgh, County of Orange, as
follows:

SECTION 1. GENERALLY AMENDING LOCAL LAW #1 OF THE YEAR 1966.

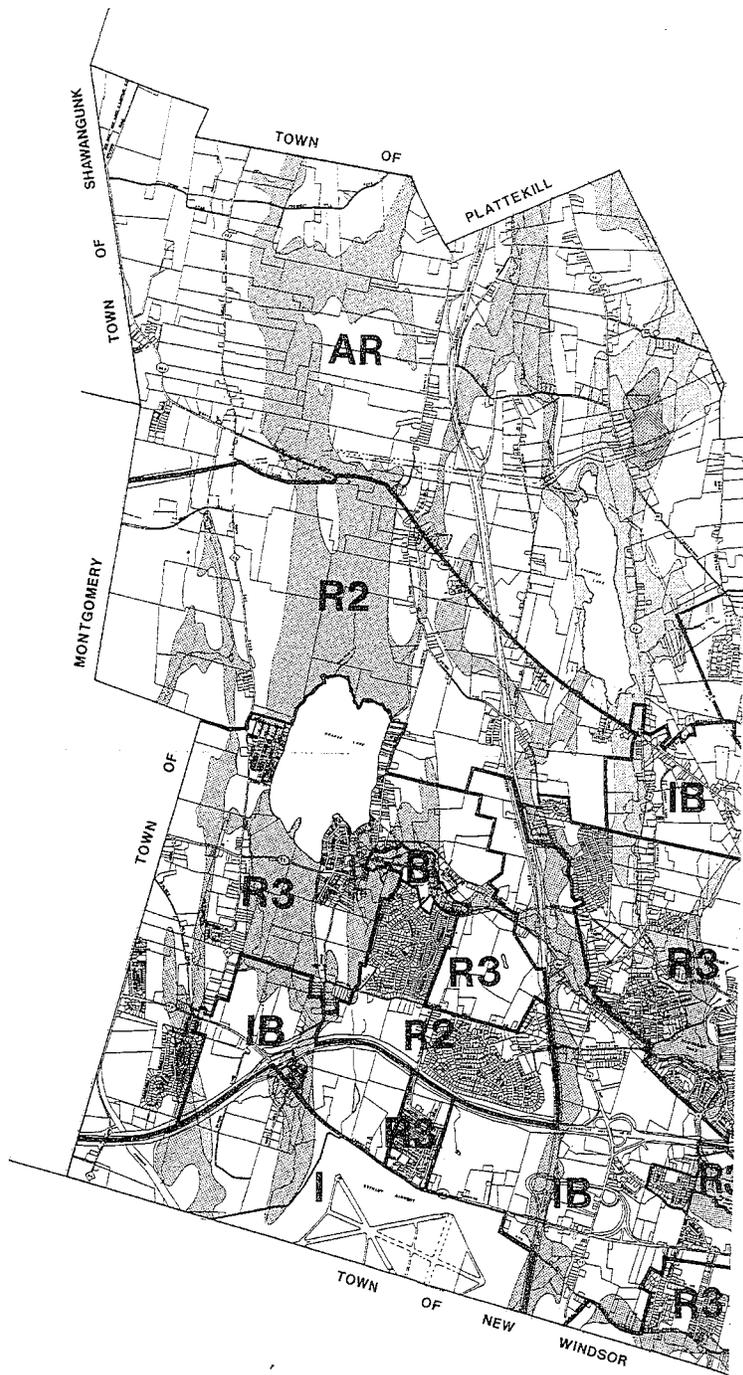
That Local Law #1 of the year 1966 establishing a zoning law
of the Town of Newburgh and as amended from time to time is
hereby amended to read as follows:

ZONING MAP

- AR AGRICULTURE
RESIDENTIAL
- R 1 RESIDENTIAL
- R 2 RESIDENTIAL
- R 3 RESIDENTIAL
- B BUSINESS
- IB INTERCHANGE
BUSINESS
- I INDUSTRIAL

DEVELOPMENT CONSTRAINTS

- MAJOR DRAINAGE
CONSIDERATIONS
- MINOR DRAINAGE
CONSIDERATIONS



BASE MAP PREPARED BY
ORANGE COUNTY DEPARTMENT OF PLANNING 1971

TOWN OF NEWBURGH, ORANGE COUNTY, N



Y. 0 2000 4000ft
↑ NORTH