



TOWN OF NEWBURGH

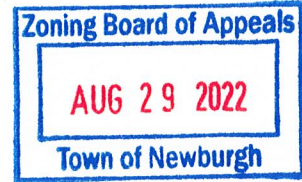
Crossroads of the Northeast

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

OFFICE OF ZONING BOARD

TELEPHONE 845-566-4901

FAX LINE 845-564-7802



APPLICATION

DATED: 8-24-2022

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

I (WE) SAM NEWBURGH LLC
JAMES L. HOCHFELDER PRESENTLY

RESIDING AT NUMBER 157 DOVE HILL DR
MANHASSET NY 11030

TELEPHONE NUMBER 917-647-8038

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

- ☒ USE VARIANCE
- ☐ AREA VARIANCE (S)
- ☐ INTERPRETATION OF THE ORDINANCE
- ☐ SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:

SBL 60-3-22.222 (TAX MAP DESIGNATION)

1420 RTE 300 (STREET ADDRESS)

1B (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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUB-SECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

SECTION 185-11 UTILIZATION OF BULK TABLE
TABLE OF USE AND BULK REQUIREMENTS
1B DISTRICT - SCHEDULE B
SECTION 185-35.F LANDSCAPE AND SECURITY

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:

✓ b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED:

8-25-2022

4. DESCRIPTION OF VARIANCE SOUGHT: SECT 185-11: BUILDING HEIGHT OF 23 FT EXISTING (15' MAX ALLOWED) AND LOT SURFACE COVERAGE OF 73% EXISTING (60% MAX ALLOWED),
SECT 185-35. F VARIANCE FROM FENCING REQUIREMENT

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

N.A.

a) UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE:

(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:

c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:

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

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:

SEE ATTACHED ADDENDUM

- 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:

SEE ATTACHED ADDENDUM

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

SEE ATTACHED ADDENDUM

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

SEE ATTACHED ADDENDUM

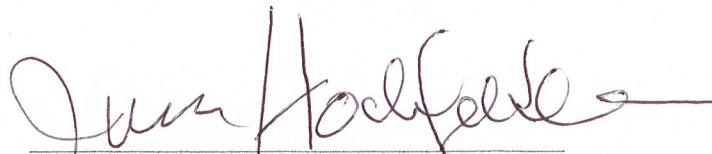
- e) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

SEE ATTACHED ADDENDUM

7. ADDITIONAL REASONS (IF PERTINENT):

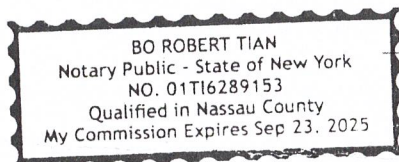
SIMILAR VARIANCES WERE GRANTED AS FOLLOWS:

1. FEBRUARY 2007 - PATRICK PAGE PROPERTIES LLC/
STORAGE STOP II LANDS OF HARRIET MOLIN
(1613 RTE 300) FOR BUILDING HEIGHT (30.8 FT.
EXISTING VS. 15 FT. ALLOWED)
2. MAY 2022 - MBH DEVELOPMENT GROUP LLC
(14 CROSSROADS COURT) FOR BUILDING
HEIGHT (33.6 FT. EXISTING VS 15 FT. ALLOWED)
AND LOT SURFACE COVERAGE (75.8%
EXISTING VS. 60% ALLOWED)


PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ^{Nassau} ~~ORANGE~~ ^{BT}

SWORN TO THIS 24th DAY OF August 20 22

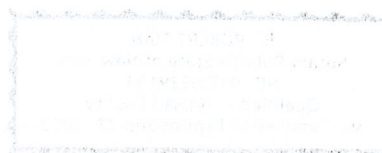



NOTARY PUBLIC

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

SAM NEWBURGH LLC
JAMES L. HOCHFELDER, DEPOSES AND SAYS THAT
MANAGING MEMBER
HE/SHE RESIDES AT 157 DOVE HILL DR, MANHASSET

IN THE COUNTY OF NASSAU AND STATE OF NEW YORK

AND THAT HE/SHE IS THE OWNER IN FEE OF TOWN OF

NEWBURGH TAX PARCEL SECTION 60
BLOCK 3 LOT 22.222

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED DARREN C. DOLE
VINCENT J. DOLE ASSOCIATES
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 8/24/22

[Signature]
OWNER'S SIGNATURE

[Signature]
WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF Nassau BT
~~ORANGE~~

SWORN TO THIS 24th DAY OF August 2022

[Signature]
NOTARY PUBLIC

BO ROBERT TIAN
Notary Public - State of New York
NO. 01TI6289153
Qualified in Nassau County
My Commission Expires Sep 23, 2025

Addendum

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 site is an existing developed site located in a highly developed commercial area. An existing theater is being converted into an indoor self-storage facility. All work will be done within the existing building and the exterior dimensions of the building will not change. There is no site work being proposed. The building height and lot surface coverage variances relate to existing nonconformities associated with the existing building and site. Since the building is existing, the site is currently developed and the nonconformities are pre-existing, the overall character of the site will not change, and the variances will not cause an undesirable change or detriment to the neighborhood or the neighboring properties.

Providing a variance from the requirement to fence the site will actually be a benefit because the vast amount of unsightly and unnecessary fence will not be required. Thereby, the character of the site will remain unchanged.

- 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 site is developed and the non-conformities are existing. In order to meet zoning requirements a substantial amount of work would be required. Structural changes to the building to lower the building height would be impractical if not impossible.

The variances needed are caused by the change of use from a theater to an indoor self-storage facility. To use the building for an indoor climate-controlled storage facility requires the variances because the bulk requirements for this facility differ than those required for a movie theater.

Regarding the fencing requirement, all storage will be within the building and all building entrances will be secure. Fencing the site for security reason is unnecessary.

For the reasons stated, the variances are the applicant's only option.

- c. THE REQUESTED AREA VARIANCES ARE NOT SUBSTANTIAL BECAUSE:

The variances are related to existing conditions and only caused by the change in use. The existing zoning code regarding self-storage facilities seems to be meant

Addendum

for the outdated single-story garage type buildings, not for the typical self-storage building trend of today.

The majority of commercial uses in this zone (IB zone), including warehousing, allow for a 35-40 maximum building height and an 80% lot surface coverage. The existing building height and lot coverage are actually less than would be permitted for other uses.

The site is located in a developed commercial area. The site is not substantially different from the adjacent developed sites.

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

The building and parking areas are existing, therefore, there will be no additional impacts on conditions in the neighborhood. All work will be done within the existing building and there will be no physical disturbance to the site.

Self-storage facilities are low impact, low traffic uses and would have less impact on the neighborhood than the current use.

Providing fencing to meet zoning requirements will actually have an adverse effect on the neighborhood producing a large amount of unnecessary and unsightly fencing. As stated previously, all storage will occur within a secure building. Therefore, fencing is not needed. Eliminating the requirement that the site be fenced will be a benefit to the neighborhood.

Additionally, the existing building and interior of the site are set back about 500 ft from the public roads, and the parking areas and building are not easily visible.

e. THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

The hardship is created by the different requirements for self-storage facilities in the IB zone as compared to the requirements for the existing theater building. The zoning requirements for self-storage facilities were written for the old outdoor garage-style storage units and are outdated. The zoning requirements for self-storage facilities in the IB zone do not consider the recent trend in the storage industry for indoor climate controlled multi-level facilities. In 2010 the Town provided for self-storage facilities in certain B zones, allowing for 35-foot building heights and maximum lot surface coverages of 80%. maximum. The requirements for these facilities located in IB zones most likely should have been similarly revised.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

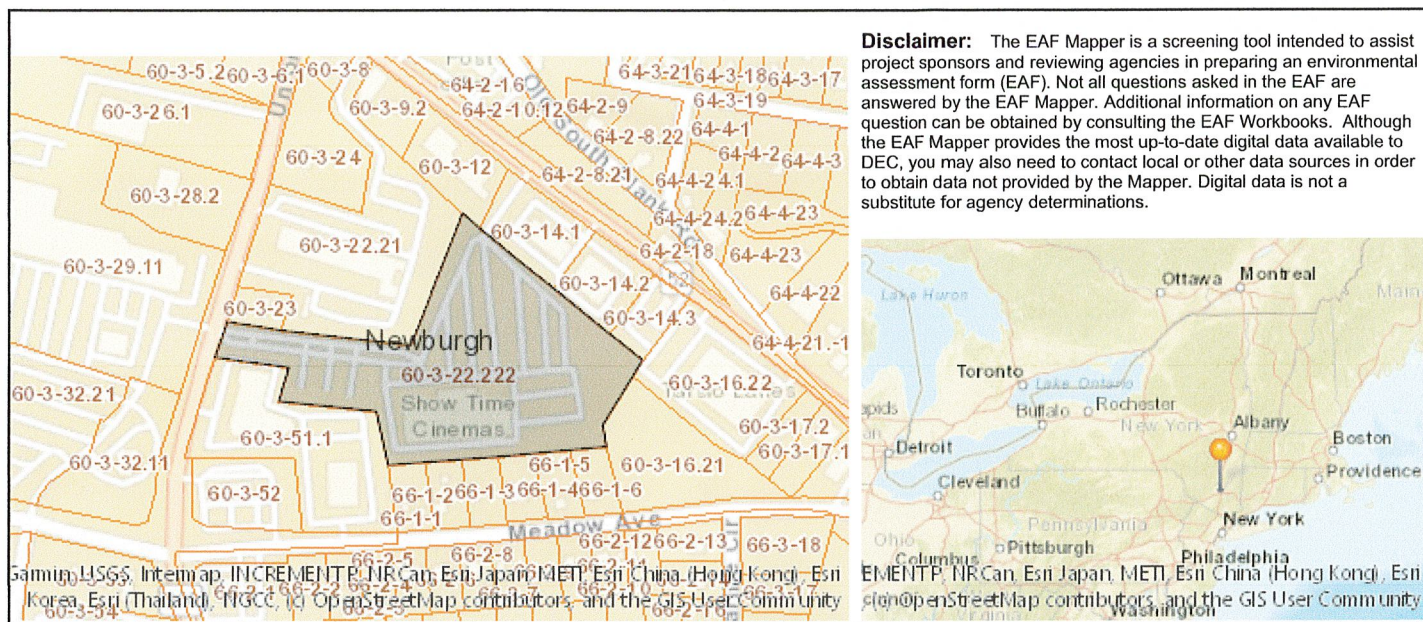
Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. 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: Area Variance for Change of Use Site Plan for SAM Newburgh LLC				
Project Location (describe, and attach a location map): 1420 Route 300, Town of Newburgh, Orange County				
Brief Description of Proposed Action: Change of use of an existing developed site, containing a 38,522 +/- square foot building, from a movie theater to an indoor self-storage facility. There will be no change to the size of the existing building envelope and the height of the existing building will remain the same. The new building area will be 85,000 square feet, but all changes will be done within the interior of the existing building. The building will contain a 227 square foot office and 708 storage units. The site has two existing zoning bulk requirement non-conformities; the maximum building height is exceeded (23 feet exists where 15 feet maximum is allowed) and the maximum lot surface coverage is exceeded (73% exists where 60% maximum is allowed). Since the building will be an indoor storage facility with all the entrances being secure, fencing is not proposed around the perimeter of the site.				
Name of Applicant or Sponsor: SAM Newburgh, LLC c/o James Hochfelder		Telephone: 917 647-8038 E-Mail: hochjl@aol.com		
Address: 157 Dove Hill Dr				
City/PO: Manhasset		State: NY	Zip Code: 11030	
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: Site Plan Approval Town of Newburgh Planning Board			NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		8.4 +/- 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?		8.4 +/- acres		
4. Check all land uses that occur on, are adjoining or near the proposed action: 5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland				

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	N/A <input type="checkbox"/> <input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ The existing building is connected to the Town of Newburgh water system.	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ The existing building is connected to the Town of Newburgh sewer system.	NO <input type="checkbox"/>	YES <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? 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?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input 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? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input type="checkbox"/> <input checked="" type="checkbox"/>	YES <input checked="" type="checkbox"/> <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? Indiana Bat	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
This is a developed site. Storm water discharges are directed into an existing storm drainage system from the site to existing storm culverts located in Meadow Avenue. There will be no increase to impervious surfaces; therefore, there will be no increase to storm water runoff.		
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: Vincent J. Doce Associates/Darren C Doce. Date: 8/24/2022 Signature: <u><i>Darren C Doce</i></u> Title: <u>PE</u>		



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

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

Park Avenue Theaters, LLC

TO

Max Newburgh, LLC

SECTION 60 BLOCK 3 LOT 161-222RECORD AND RETURN TO:
(name and address)Neil S. Miller, Esq.
Greenburg Traurig, LLP
200 Park Ave
New York NY 10166

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 7 CROSS REF. ☐
CERT. COPY ☐ ADD'L X-REF. ☐
MAP# ☐ PGS. ☐

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

Taxable
CONSIDERATION \$ 0
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: EAM

RECORDED/FILED
04/16/2004/ 10:42:04
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY

FILE # 20040050893
DEED / BK 11461 PG 0104
RECORDING FEES 101.00
TTX# 010245 TRANS TAX 0.00
Receipt#234835 dab

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
ON 4/16/2004 AND THE SAME IS A CORRECT
TRANSCRIPT THEREOF IN WITNESS WHEREOF, I HAVE 8/23/2002
HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL

COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,
ORANGE COUNTY





T 691—Standard N.Y.B.T.U. Form 8002: Bargain & sale deed,
with covenant against grantor's acts—Ind. or Corp.: single sheet. 11-98

DISTRIBUTED BY Blumberg Excelsior, Inc.,
NYC 10013

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

THIS INDENTURE, made on as of January 1, 2003

BETWEEN Park Avenue Theaters, LLC, a New York limited liability company,
having an address at c/o Max Capital, Attn: Mr. Adam Hochfelder, 230 Park
Avenue, New York, NY 10169

party of the first part, and

Max Newburgh LLC, a Delaware limited liability company, having an
address at c/o Max Capital, Attn: Mr. Adam Hochfelder, 230 Park Avenue,
New York, NY 10169

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars 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 certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,
lying and being in the

^{Town}
City of Newburgh, County of Orange and State of New York, and more
particularly described on Schedule A attached hereto and made a part hereof.

Being the same premises as conveyed to party of the first part by deed dated
1/28/00 and recorded on 2/28/00 in the office of the Orange County Clerk in
Liber 5250 Page 114

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 party of the second part, the heirs or successors and assigns of the party of
~~the second part forever.~~

~~THE FIRST PART~~ 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.

AND the party of the first part, in compliance with Section 13 of the 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.

IN PRESENCE OF:

Joshua D. Brown 2/25/04

JOSHUA D. BROWN
Notary Public, State of New York
No. 015R6104342
Qualified in New York County
Commission Expires January 20, 2008

By: Park Avenue Theaters Corporation,
its Manager

By:
Adam Hochfelder, President

ACKNOWLEDGMENT OUTSIDE NEW YORK STATE (RPL 308-a)

State of New York ss.:
County of
On February 25, 2004 before me, the undersigned,
personally appeared ADAM HOCHFELDER

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(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

JOHN D. BROWN
Notary Public, State of New York
Commission Expires January 24, 2006
Qualified in New York City

ACKNOWLEDGMENT OUTSIDE NEW YORK STATE (RPL 308-b)

State of _____ County of _____ ss.:
On _____ before me, the undersigned,
personally appeared _____

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(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in

(insert city or political subdivision and state or county or other place acknowledgment taken)

(signature and office of individual taking acknowledgment)

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS
TITLE No. CS40432

PARK AVENUE THEATERS, LLC

TO

MAX NEWBURGH LLC

ACKNOWLEDGMENT BY SUBSCRIBING WITNESS(ES)

State of _____ ss.:
County of _____
On _____ before me, the undersigned,
personally appeared _____

the subscribing witness(es) to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in (if the place of residence is in a city, include the street and street number, if any, thereof);

that he/she/they know(s)

to be the individual(s) described in and who executed the foregoing instrument; that said subscribing witness(es) was (were) present and saw said

execute the same; and that said witness(es) at the same time subscribed his/her/their name(s) as a witness(es) thereto.

(☐ if taken outside New York State insert city or political subdivision and state or county or other place acknowledgment taken. And that said subscribing witness(es) made such appearance before the undersigned in

(signature and office of individual taking acknowledgment)

SECTION 60
BLOCK 3
LOT 16.1 and 22.22
COUNTY OR TOWN County of Orange
Town of Newburgh
PREMISES: 1124 Union Avenue, Newburgh, NY

RETURN BY MAIL TO:

Neil S. Miller, Esq.
Greenburg Traurig, LLP
200 Park Avenue
New York, NY

Zip No. 10166

Reserve this space for use of Recording Office.

Schedule A

As to Parcel I: Lot 16.1

All that piece or parcel of land, situate, lying and being in the Town of Newburgh, County of Orange, State of New York, being designated as Lot No. 2 of a map entitled "Subdivision Plan Lands of Newburgh Algonquin Lanes, Inc.", dated November 4, 1985, last revised April 30, 1986, said parcel being more particularly bounded and described as follows:

BEGINNING at a point, said point being the southeasterly corner of lands now or formerly of Kestler, said point being South 38 degrees, 17 minutes 57 seconds West 225.22 feet from the northwesterly corner of Newburgh Algonquin Lanes, Inc.;

RUNNING THENCE, from said point of beginning and through the lands of said Newburgh Algonquin Lanes, Inc., South 33 degrees 14 minutes 33 seconds West 201.07 feet to point on the division line between lands now or formerly of Meadow Associates on the west and north and the parcel herein described on the east and south;

THENCE, along the last said division line, North 12 degrees 06 minutes 04 seconds West 252.23 feet and North 75 degrees 51 minutes 48 seconds East 62.60 feet to a point on the division line between the lands now or formerly of Kestler on the northeast and parcel herein described on the southwest;

THENCE, along the last said division line, South 47 degrees, 31 minutes, 23 seconds East 138.83 feet to the point or place of BEGINNING, containing 0.50 acres of land, more or less.

TOGETHER with an easement, for purposes of placing a drainage culvert and appurtenances, and for the purposes of access to said culvert and appurtenances and maintenance thereof, said easement being 30 feet in width, and the centerline of said easement being described as follows:

BEGINNING at a point in the southeasterly line of the above described parcel, said point being located North 33 degrees 14 minutes 33 seconds West 87 feet (more or less) from the northeasterly corner of said parcel;

THENCE, through the lands of the grantor herein the following six courses:

- 1) South 63 degrees 53 minutes 49 seconds East 84 feet (more or less);
- 2) South 48 degrees 07 minutes 49 seconds East 128.56 feet;

- continued -

Schedule A Continued

- 3) South 56 degrees 51 minutes 24 seconds East 124.89 feet;
- 4) South 70 degrees 50 minutes 15 seconds East 78.30 feet;
- 5) South 51 degrees 45 minutes 46 seconds East 90.40 feet; and
- 6) South 26 degrees 19 minutes 00 seconds East 27 feet (more or less) to a point in the northerly boundary of the existing Meadow Avenue

TOGETHER with the right to move utility poles and wires, and appurtenances thereto, as they appear on the above mentioned subdivision map, as may be necessary to place, maintain, and have access to above mentioned drainage lines and appurtenances.

- continued -

Schedule A Continued

As to Parcel II: Lot 22.22

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

BEGINNING at a point in the easterly line of the existing N.Y.S. Route 300 (A.K.A. Union Avenue), said point being on the division line between the lands now or formerly of Byrne on the north and the parcel herein described on the south;

RUNNING THENCE, along the last mentioned division line, South 81 degrees 36 minutes 15 seconds East 150.00 feet to a point on the division line between the lands now or formerly of New York Telephone on the north and northwest and the parcel herein described on the south and southeast;

THENCE, along the last mentioned division line the following two courses:

- 1) South 81 degrees 43 minutes 41 seconds East 344.73 feet; and
- 2) North 22 degrees 47 minutes 11 seconds East 387.01 feet to a point on the division line between the individual lands of Salese, Meadow Associates, and Morgano respectively on the northeast and the parcel herein described on the southwest;

THENCE, along the last mentioned division line, South 47 degrees 15 minutes 50 seconds East 493.29 feet to a point on the division line between the lands now or formerly of Newburgh Algonquin Lanes, Inc. on the south and east and the parcel herein described on the north and west;

THENCE, along the last mentioned division line the following two courses:

- 1) South 75 degrees 51 minutes 48 seconds West 58.17 feet; and
- 2) South 12 degrees 06 minutes 04 seconds East 306.79 feet to a point on the division line between the individual lands now or formerly of Zeitfuss, Rhodes, Meadow Associates, Pezold, Doody, and Coutant on the south and the parcel herein described on the north;

THENCE, along the last mentioned division line the following two courses:

- 1) South 84 degrees 53 minutes 00 seconds West 300.10 feet; and
- 2) South 86 degrees 41 minutes 54 seconds West 301.20 feet to a point on the division line between lands now or formerly of Newburgh Savings Bank on the west and south and the parcel herein described on the east and north;

- continued -

Schedule A Continued

THENCE, along the last mentioned division line the following four courses:

- 1) North 7 degrees 07 minutes 42 seconds West 153.00 feet;
- 2) North 81 degrees 52 minutes 15 seconds West 256.40 feet;
- 3) North 17 degrees 36 minutes 45 seconds East 100.00 feet; and
- 4) North 81 degrees 52 minutes 15 seconds West 200.00 feet to the aforementioned easterly line of N.Y.S. Route 300 (A.K.A. Union Avenue);

THENCE, along the easterly line of N.Y.S. Route 300, North 17 degrees 36 minutes 45 seconds East (Deed), North 17 degrees 36 minutes 54 seconds East (Survey) 100.80 feet to the point or place of BEGINNING.

TOGETHER with the right for ingress and egress to and from Route 52 to and from the above described premises. Said right for ingress and egress is more particularly described as follows:

BEGINNING at a point in the southwesterly line of the existing N. Y. S. Route 52, South Plank Road, said point being South 51 degrees 50 minutes 40 seconds East 39.16 feet along said southwesterly line of N. Y. S. Route 52 from the northwesterly corner of Lot No. 3 of Orange County filed Map No. 5831;

THENCE along the southwesterly line of said N. Y. S. Route 52 South 51 degrees 50 minutes 40 seconds East 51.07 feet to a point;

THENCE through the lands of Meadow Associates, the following two (2) courses:

1. South 60 degrees 23 minutes 51 seconds West 5.22 feet, and
2. South 38 degrees 15 minutes 17 seconds West 174.87 feet to a point on the division line between the lands now or formerly of Meadow Associates (presently occupied by UA Cinemas 10) on the southwest and the herein described access drive on the northeast;

THENCE along the last said division line, North 47 degrees 31 minutes 23 seconds West 45.67 feet to a point;

THENCE through the lands of Meadow Associates, the following two (2) courses:

1. North 37 degrees 41 minutes 39 seconds East 171.15 feet, and
2. North 18 degrees 00 minutes 30 seconds East 5.45 feet to the point or place of BEGINNING.

James R. Loeb
Richard J. Drake, *retired*
Glen L. Heller*
Marianna R. Kennedy
Gary J. Gogerty
Stephen J. Gaba
Adam L. Rodd
Dominic Cordisco
Ralph L. Puglielle, Jr.
Nicholas A. Pascale

Alana R. Bartley
Aaron C. Fitch
Judith A. Waye
Michael Martens

Jennifer L. Schneider
Managing Attorney

*L.L.M. in Taxation

August 25, 2022

BY EMAIL ONLY

Darrin J. Scalzo, Chairman
Zoning Board of Appeals
Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York 12550

Re: SAM NEWBURGH LLC / Change of Use / Planning Board Project No. 22-20

Dear Chairman Scalzo and Board Members:

At the Planning Board's August 18, 2022 meeting, the Planning Board resolved to refer this application to the Zoning Board of Appeals. Please accept this revised referral letter.

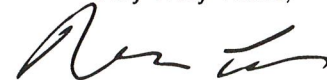
The proposed project involves a change in use of the existing Showtime Cinema building located at 1420 Route 300 to a self-storage use. The site is in the IB zoning district. Although no exterior changes to the existing building are proposed, self-storage facilities are limited to a maximum height of 15 feet in the IB zone. The existing structure is shown as having a height of 23 feet; thus a variance of 8 feet above the maximum height allowed will be required for this project.

The project will also require a variance for lot coverage, as existing lot coverage is 73%, where 60% is allowed. Lastly, self-storage facilities are required to be fenced pursuant to Town Code § 185-35(E) "to prevent vandalism or criminal activity". The applicant proposes to not install fencing at the facility, and thus a variance from this requirement is also necessary.

The Planning Board has deemed this application to be a SEQRA Type II Action pursuant to 6 NYCRR 617.5(18) ("reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part). As a result the Zoning Board of Appeals may consider and process this application without the need to wait for the Planning Board to conclude any further SEQRA review.

Thank you for your consideration of this matter.

Very Truly Yours,



Dominic Cordisco

cc:

David A. Donovan, Esq., Attorney for the ZBA
Town of Newburgh Planning Board
Patrick J. Hines, Planning Board Consulting Engineer



Front of Building



Rear of Building



View of Site from Rte 52



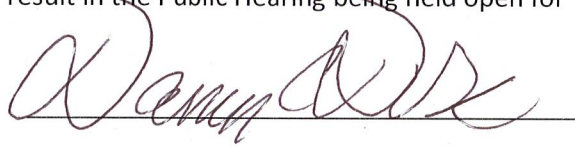
View of Site from Rte 300

**AFFIDAVIT OF POSTING(S) OF
NOTICE OF PUBLIC HEARING
AT THE PROPERTY**

STATE OF NEW YORK: COUNTY OF ORANGE:

I DARREN L. DOLE, being duly sworn, depose and say that I did on or before
September 8, 2022, post and will thereafter maintain at
14420 Route 300 60-3-22.222 IB Zone in the Town of Newburgh, New York, at or near the front
property line(s) and within view of each fronting street a copy(ies) of the Notice of Public Hearing, which
notice was in the form attached hereto.

The applicant shall maintain and update notice(s) (with amended information if there is any change to the information contained in the original Notice of Hearing) until after the Public Hearing is closed. The Notice must then be removed and property disposed of within ten (10) days of the close of the Public Hearing. Failure to follow the required procedure may result in the Public Hearing being held open for additional time.



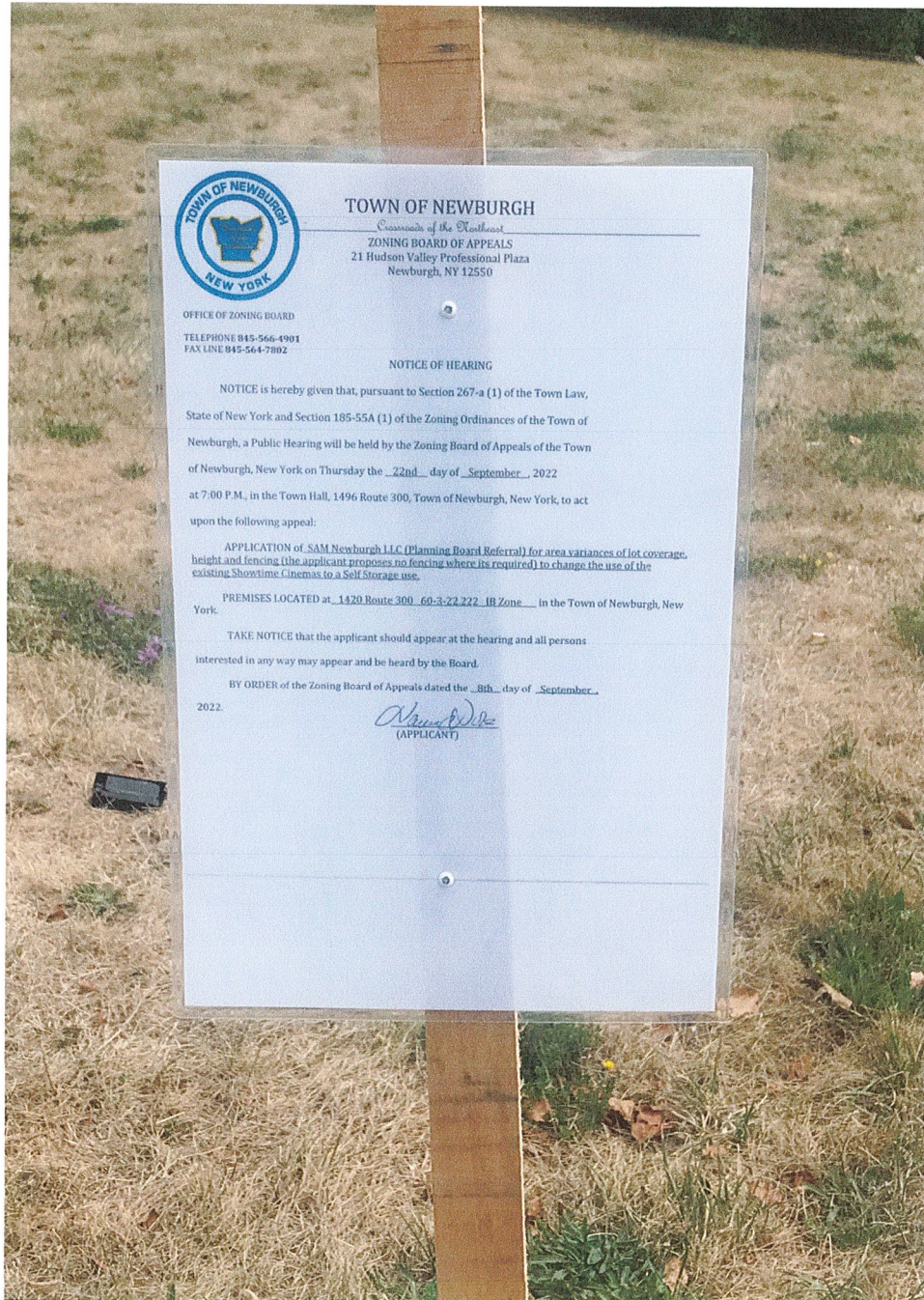
Sworn to before me this 29

day of August, 2022.





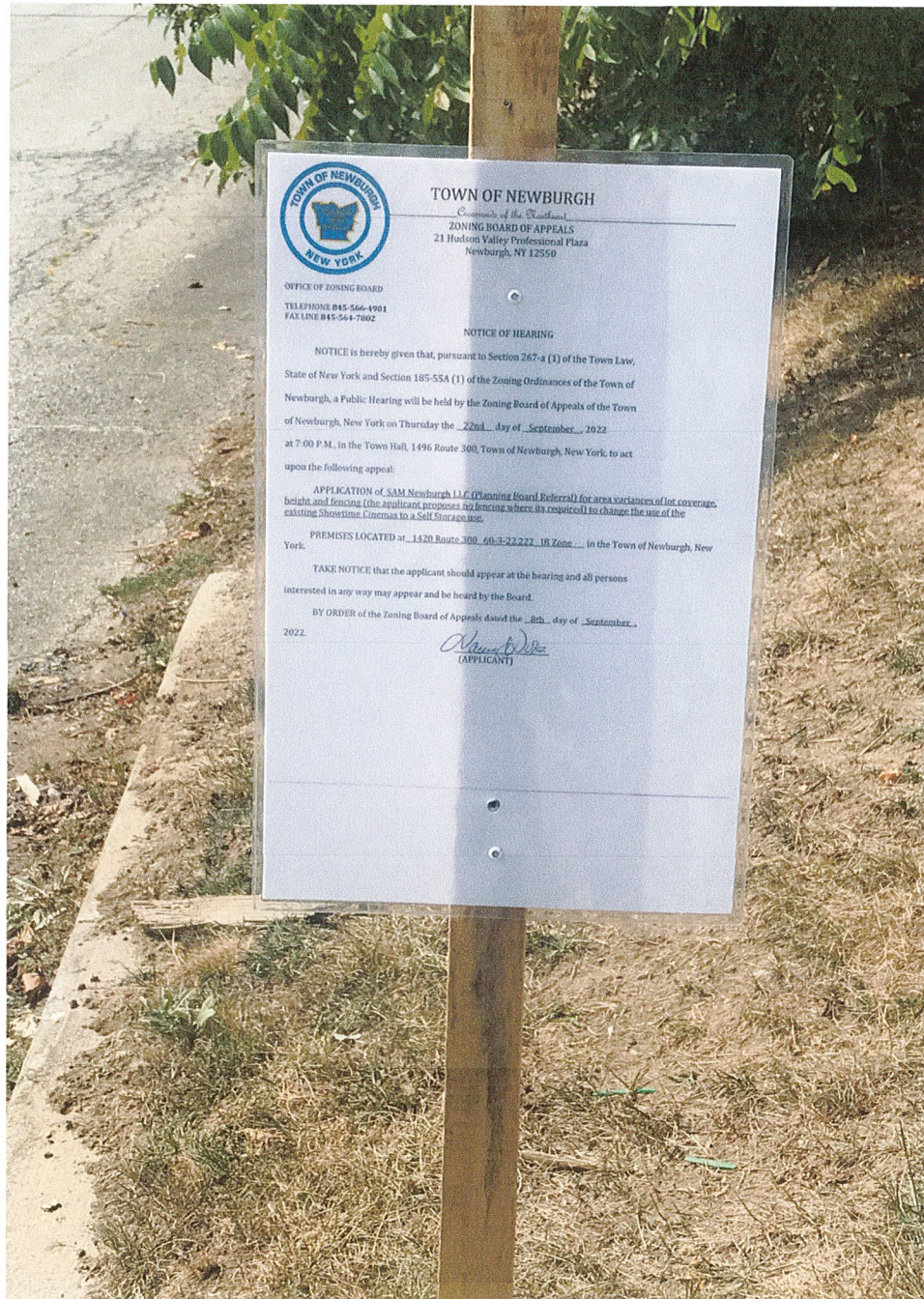
NYS RTE 300
SAM NEWBURY LLC



NYS RTE 300
SAM NEWBURGH LLC



NYS RTE 52
SAM NEWBURY LLC



NYS RTE 52
SAM NEWBURGH LLC