

KALTER, KAPLAN, ZEIGER & FORMAN

ATTORNEYS AT LAW

6166 STATE ROUTE 42, P.O. BOX 30

WOODBOURNE, NEW YORK 12788

IVAN KALTER

JEFFREY KAPLAN

JAY L. ZEIGER

TERRY S. FORMAN

TEL. (845) 434-4777

FAX (845) 436-8156

Email: kkz@hvc.rr.com

ELLENVILLE OFFICE

47 NORTH MAIN STREET, P.O. BOX 186

ELLENVILLE, NEW YORK 12428

TEL. (845) 647-4110

FAX (845) 647-6232

Email: jkaplan.kkzf@gmail.com

July 25, 2016

Ms. Donna Akerley, Town Clerk
Town of Fallsburg Town Clerk's Office
PO Box 2019
19 Railroad Plaza
South Fallsburg, New York 12779

RE: Prime Vista, LLC

Dear Donna:

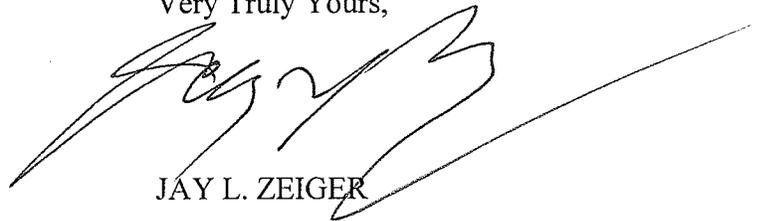
Enclosed is the original and six copies of a Petition for Relief from the Town of Fallsburg Moratorium law.

Please let me know when the public hearing will be scheduled.

I will be out of the office from August 11, 2016 to August 16, 2016. I would appreciate it if the public hearing is not scheduled during that time period; a few days before or after would be beneficial to me.

Thank you.

Very Truly Yours,

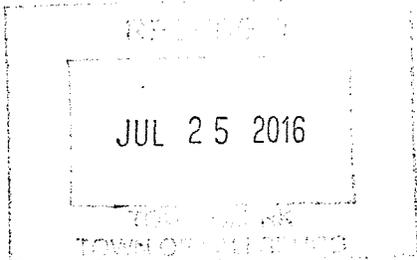


JAY L. ZEIGER

JLZ/dm

Enc.

cc: Mr. Rivkie Pinkasovits (via email with enclosures)
Paula Kay, Esq. (via email with enclosures)
Ms. Mollie Messinger (via email with enclosures)



State of New York - County of Sullivan
Town of Fallsburg - Town Board

=====
In the matter of the Application of /
PRIME VISTA, LLC /
/
for a Hardship Variance from the Town's/
Residential Moratorium Local Law /
=====

**Verified Petition for Relief from
Moratorium**

The Petitioner, PRIME VISTA, LLC, by its attorneys, KALTER, KAPLAN, ZEIGER & FORMAN, hereby submits this Petition for a hardship variance from the application of the Town's Residential Moratorium Local Law (the "Moratorium Law"), and in furtherance thereof, respectfully alleges as follows:

1. The Petitioner is the owner of a parcel of real property located off of Laurel Avenue, South Fallsburg, New York, known as Town of Fallsburg SBL 36.-1-33.5 (the "Property"). The Property consists of 43.84± acres.
2. The Property was acquired by the Petitioner on June 9, 2016, for the sum of \$600,000.00, plus closing costs and expenses and due diligence fees of in excess of \$10,000.00, representing total acquisition costs of \$610,000.00.
3. The contract to purchase included a due diligence investigation period (the "Due Diligence Period") that allowed the Petitioner the opportunity to investigate the feasibility of a development project before committing to the purchase.

THE PROJECT

4. The Project contemplated by the Petitioner (the "Project") and further described below, involves 46 fee simple single family lots, each to be located upon a .5 acre or greater parcel.
5. Annexed hereto as Exhibit "A" is a letter from Kirk Rother, engineer, to the Town Planner and the Town Engineer dated February 26, 2016. As set forth in said letter, the Petitioner could develop the Property utilizing the Town's Duplex Development Law, without an extension of the Town's water and sewer districts and construct 52 houses.
6. The Property is located partially within the Town's water and sewer districts and partially outside of said districts. The Duplex Development described in Paragraph "5" above could be developed to construct 52 houses, all within the districts as they now exist. On the other hand, with respect to the fee simple development proposed by the Petitioner, only 46 houses would be constructed; however, to accommodate this development, an extension of the water and sewer districts would be needed to include the entire Property.

7. During the Due Diligence Period referenced in Paragraph "3" above, the Petitioner met with the Town Board on two separate occasions, and met with Town consultants on several occasions. At the Town Board meeting of March 7, 2016, the Town Board agreed to extend the Town water and sewer districts to accommodate the Petitioner's 46 fee simple single family lot Project.

8. Based upon the above determination of the Town Board, the Petitioner elected to proceed with the purchase and not to cancel, and on June 9, 2016, the Petitioner proceeded to purchase the Property.

PROJECT HISTORY

9. On June 27, 2016, the Petitioner submitted an application to the Planning Board for the Project. The application included a proposed subdivision map showing 46 lots, together with the location of roads and amenities. The application also included an environmental assessment form. The Project has not been heard by the Planning Board because of the Moratorium Law.

FINANCIAL HARDSHIP

10. As discussed in Paragraph "2" above, the Petitioner acquired the Property on June 9, 2016 for total acquisition costs of \$610,000.00. The determination to purchase was based, in large part, by the determination of the Town Board to extend the Town's water and sewer districts to accommodate the Project.

11. In order to complete the development through the approval process, additional costs and expenses will be incurred in the estimated amount of \$100,000.00.

RELIEF REQUESTED

12. For the reasons heretofore set forth, the Petitioner is requesting relief from the Moratorium Law and requesting authority to complete the development of the Project.

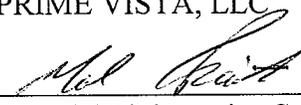
13. The Petitioner has demonstrated a substantial financial hardship mandating that this Project be allowed to proceed notwithstanding the Moratorium Law. To date in excess of \$610,000.00 has been paid for property acquisition costs and development costs, including engineers and town consultants.

14. For all of the reasons set forth herein, it is respectfully submitted that the Petitioner has demonstrated that a significant hardship would be incurred, financial and otherwise, in the event that the Petitioner would not be allowed to proceed towards completion of this Project, and that, in such event, Petitioner would suffer irreparable injury of no less than \$610,000.00.

WHEREFORE, it is respectfully requested that the Town of Fallsburg grant the Petitioner relief from the stay of development provided for by the Town of Fallsburg Residential Zoning Moratorium Law and that this project be allowed to proceed through the approval process of the Town of Fallsburg Planning Board and any other Town Boards which may require approval for this Project, including the Architectural Review Board and the Building Department.

Dated: Woodbourne, New York
July 22, 2016

PRIME VISTA, LLC

By: 
Mendel Pinkasovits, Sole Member

KIRK ROTHER, P.E.

CONSULTING ENGINEER, PLLC

5 SAINT STEPHENS LANE

WARWICK, NY 10990

Phone (845) 988-0620

Email krother@kirkrother.com

Fax (845) 988-1628

February 26, 2016

Robert Geneslaw
368 New Hempstead Road, #320
New City, NY 10956

Ken Ellsworth, PE
Keystone Associates, LLC
58 Exchange Street
Binghamton, NY 13901

RE: Prime Vista, LLC
Water and Sewer Extension

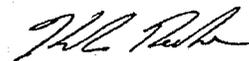
Dear Messrs. Geneslaw and Ellsworth:

Enclosed please find two alternative sketch development plans for an existing 43.8 acre vacant parcel of land fronting the east side of Laurel Avenue within the Town of Fallsburg R-1 Zoning District. The applicant wishes to develop the property in accordance with the Town's one half acre per single family dwelling unit zoning. To do so, an extension of the Town's water and sewer districts would be required. Those districts currently end at a point 600 feet from Laurel Avenue which covers approximately one third of the property.

Should the parcel be developed utilizing the Duplex Law, we conclude that 26 Duplex buildings, or 52 units, could be built on lands lying within the existing water and sewer district boundaries. A sketch Duplex Plan is one of the alternatives submitted herewith. In the alternative, the applicant would like to construct 46 single family lots on parcels having a size of one half acre or greater with water and sewer extended to cover the entire 43 acre parcel. A sketch of the 46 lot half acre plan is the other alternative submitted herewith.

Extension of the water and sewer district was discussed with the Town Board by the Applicant's attorney. Subsequent to that meeting the Applicant was instructed to present the enclosed maps to the Town staff for further review. To that end, this matter has been scheduled for the March 2, 2016 Staff meeting.

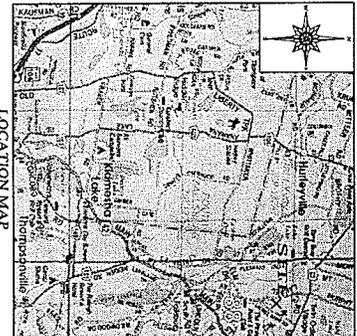
Respectfully,



Kirk Rother, P.E.

Enc.

Exhibit "A"



BULK REQUIREMENTS

R-1 ZONE
DUPLIX LAW

REQUIREMENT	MINIMUM REQUIREMENT	PROPOSED
MINIMUM LOT AREA (SQ. FT.)	10,000	10,000
MINIMUM FRONT YARD SETBACK (FEET)	25	25
MINIMUM SIDE YARD SETBACK (FEET)	5	5
MINIMUM REAR YARD SETBACK (FEET)	5	5
MINIMUM FRONT PORCH DEPTH (FEET)	5	5
MINIMUM FRONT PORCH WIDTH (FEET)	5	5
MINIMUM FRONT PORCH HEIGHT (FEET)	4	4
MINIMUM FRONT PORCH AREA (SQ. FT.)	100	100
MINIMUM FRONT PORCH SETBACK (FEET)	5	5
MINIMUM FRONT PORCH OVERHANG (FEET)	1.75	1.75

GENERAL NOTES:

1. THIS PLAN IS A PRELIMINARY DESIGN AND IS SUBJECT TO CHANGE WITHOUT NOTICE.
2. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE REVIEW AND APPROVAL OF THE LOCAL ZONING BOARD AND THE TOWN ENGINEER.
3. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE REVIEW AND APPROVAL OF THE STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.
4. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE REVIEW AND APPROVAL OF THE STATE DEPARTMENT OF TAXATION.
5. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE REVIEW AND APPROVAL OF THE STATE DEPARTMENT OF SOCIAL SERVICES.
6. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE REVIEW AND APPROVAL OF THE STATE DEPARTMENT OF HEALTH.
7. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE REVIEW AND APPROVAL OF THE STATE DEPARTMENT OF LABOR.
8. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE REVIEW AND APPROVAL OF THE STATE DEPARTMENT OF EDUCATION.
9. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE REVIEW AND APPROVAL OF THE STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.
10. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE REVIEW AND APPROVAL OF THE STATE DEPARTMENT OF NYS OFFICE OF GENERAL SERVICES.

Lands of
PRIME VISTA, LLC
TOWN OF FALLSBURG, SULLIVAN COUNTY, NEW YORK

**SKETCH
DUPLIX PLAN**

KIRK ROTHER, P.E.
CONSULTING ENGINEER, PLLC
3 Saint Stephen Street, Windsor, NY 10996
(845) 396-6500

NO.	DATE	DESCRIPTION	BY	CHKD.
1	01-26-11	INITIAL PRESENTATION		
2				
3				
4				
5				
6				
7				
8				
9				
10				

Tamara Churak

From: "Tamara Churak" <tamara-kkz@hvc.rr.com>
Date: Wednesday, March 02, 2016 3:05 PM
To: "Linda Ingber" <lingber@fallsburgny.com>
Cc: "Jay Zeiger" <jayzeiger-kkz@hvc.rr.com>; "Kirk Rother" <krother@kirkrother.com>; <pink8425@gmail.com>
Attach: SCAN8071(1)_000.pdf
Subject: Prime Vista LLC

Linda,

Please add Prime Vista LLC to the Town Board meeting scheduled for March 7, 2016.

I appeared on behalf of this project before the Town Board about a month ago. The property is currently partially in the water and sewer district. As of right, without a district extension, 26 duplex buildings can be constructed (52 houses). Instead the developer wants to do a fee simple subdivision, half acre or larger parcels. This would result in 46 houses (lower density) but would require district extensions for water and sewer to include the entire parcel.

We met with staff on March 2, 2016 to discuss the project and staff was generally in favor of the proposal.

Attached is a letter from Kirk Rother, Engineer dated February 26, 2016, with attachments.

Please confirm that this project will be on the agenda for March 7, 2016.

Jay

Tamara Churak, Legal Assistant
JAY L. ZEIGER, ESQ.
Kalter, Kaplan, Zeiger & Forman
6166 State Route 42 - P.O. Box 30
Woodbourne, NY 12788
(845) 434-4777
(845) 436-8156 (fax)