TOWN BOARD OF THE TOWN OF FALLSBURG
COUNTY OF SULLIVAN-STATE OF NEW YORK x
IN THE MATTER OF THE APPLICATION OF THE SUNNY DAY NY LLC, for relief from Local Law #3-2016 of the laws of the Town of Fallsburg (Moratorium)

Petitioner,

- against -

TOWN OF FALLSBURG

Respondent.

x

VERIFIED PETITION

RECEIVED
AUG 25 2016
TOWN CLERK
TOWN OF FALLSBURG

Petitioner The Sunny Day NY LLC, by its attorneys Stoloff & Silver LLC, as and for its Petition for relief from Local Law #3-2016 of the Town of Fallsburg, respectfully shows to the Town of Fallsburg and alleges as follows:

1. Petitioner The Sunny Day NY LLC is a New York limited liability company which is the owner of two (2) parcels of real property located in the Town of Fallsburg, to wit Town of Fallsburg Tax Map Nos. 39-1-76 and 39-1-77 located on NY State Route 42 (the "Property").

2. Tax Map Parcel No. 39-1-77 has an address of 5499 State Route 42 in the Town of Fallsburg. It consists of approximately 3.4 acres of land, upon which are located five (5) bungalows, several sheds and a pool. A wood frame house previously located on this parcel near State Route 42 was removed upon direction of the Fallsburg Zoning Board of Appeals ("ZBA") (see below).

3. Tax Map Parcel No. 39-1-76 is a 0.917 acre parcel of vacant land located to the east of Tax Map Parcel No. 39-1-77, abuts New York State Route 42, and is sought to be merged with Tax Map Parcel No. 39-1-77 in connection with the proposed project of Petitioner (Project).

THE PROJECT

4. The Project consists of the demolition and removal of all existing bungalows, outbuildings, and the swimming pool presently located on the Property, and the construction

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thereafter of seven (7) duplex homes which will be in compliance all provisions of the zoning law of the Town of Fallsburg, with the sole exception that it does not meet the minimum lot size requirement of ten (10) acres. Prior to the demolition of the home at the direction of the ZBA (see below) there were fourteen (14) dwelling units on the Property and the Project proposes to maintain the precise same number of units - fourteen (14). **There will be no increase in the number of residential uses on the Property if the Project is allowed to move forward and receive approval and no adverse impact on the Town or its resources.**

5. Annexed hereto as Exhibit "A" is a copy of the May 25, 2016 letter of Glen L. Smith P.E. to Arthur Rosenshein, Chairman of the Planning Board of the Town of Fallsburg ("Planning Board"), together with a copy of the Site Plan prepared by Mr. Smith dated May 24, 2016 which was submitted with such May 25, 2016 letter. Mr. Smith had been advised that Petitioner had already obtained an area variance to address the undersized lot, but it appears that such information given to him was incorrect.

6. The foregoing application of Petitioner for site plan approval before the Planning Board was places on the agenda for the June 9, 2016 meeting of the Planning Board, but was not addressed that night, and as a result of the adoption of Local Law #3-2016 of the Town of Fallsburg such application for site plan approval was never addressed by the Planning Board. Annexed hereto as Exhibit "B" is a copy of the relevant page of the June 9, 2016 meeting minutes of the Planning Board evidencing that this matter was on the agenda of the Planning Board that night.

THE PURPOSE OF LOCAL LAW #3-2016

7. The purpose of Local Law #3-2016 reveals that it was not intended to prevent a property owned from replacing residential units on its property with the same number of units, which

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would not impact public welfare, community services or infrastructure. The relevant portions of Section 1 of Local Law #3-2016 read as follows:

> "The purpose of this local law is to temporarily suspend requirements to approve residential subdivisions and other residential development while the Town considers changes to its comprehensive plan and considers and adopts changes to its land use regulations. This local law is intended to allow the town to amend its comprehensive plan and land use regulations to provide for controlled growth that will not unduly impact the public welfare, community services, and infrastructure, to preserve open space, and to plan for a proper mix of residential and commercial development. The town is especially concerned about the impact of its sewer systems, which are close to or at capacity. This stop gap or interim measure is intended to preserve the status quo pending the adoption of an amended comprehensive plan and amended planning and zoning regulations in accordance 3with the amended comprehensive plan"

8. The replacement of fourteen (14) existing units with fourteen (14) new units is not the approval of a residential subdivision and is not a residential "development" as envisioned in the Local Law. This Project merely seeks to replace existing dwelling units on the Property with the same number of units, which it will clearly be able to do (subject to the variance it requires) once the moratorium ends. The replacement units does not constitute "growth" and will not impact - let alone unduly impact - the public welfare, community services, infrastructure, open space or sewer systems. The status quo of fourteen (14) dwelling units on the Property will be maintained if this Project is allowed to proceed at this time.

9. Local Law #3-2016 was designed to prevent large-scale, high-density residential developments, adding new and additional residential units (sometimes hundreds or even thousands), from moving forward and irreparably affecting the Town before the Town has an opportunity to review its zoning and determine is such development is compatible with the Town and its facilities. The Project is simply not the type of matter that Local Law #3-2016 seeks to stop in its tracks before it is too late. Petitioner should not be caught up in an arguably laudable attempt to slow down

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potentially substantial growth in the number of residential units in the Town and the impact they could have on the Town's resources and infrastructure, when Petitioner's Project when completed will not adversely affect those concerns for which Local Law #3-2016 was adopted to address.

THE HISTORY OF THE PROJECT

10. Petitioner originally only sought to remove an existing two-story building on its property and replace it with a larger, triplex building. Consistent therewith, Petitioner filed an application for a use variance and an application for an area variance with the ZBA on December 3, 2014. Annexed hereto as Exhibit "C" are true and accurate copies of the applications filed by Petitioner with the ZBA.

11. During the December 18, 2014 meeting of the ZBA, one of the members of the ZBA (Jason Pantel) mentioned that the property was a "junky place" that he would like to see cleaned up. Annexed hereto is Exhibit "D" is a copy of the page of the minutes of the December 18, 2014 ZBA meeting reflecting same.

12. The ZBA did not render any decisions on December 18, 2014.

13. Petitioner appeared again before the ZBA on February 19, 2015. At that time, the ZBA approved the applications of the Petitioner to replace and relocate the existing two story building with three units with a triplex building with an increase in size in excess of 25%.

14. During the course of the February 19, 2015 meeting, ZBA member Pantel again mentioned that the property had been an eyesore for a long time, he wanted to know if it was possible to clean the property up, he stated that the house had to be torn down, and he indicated that he could not believe that people were living on the premises and that at least one bungalow was leaning to its side. Annexed hereto is Exhibit "E" is a copy of the minutes of the February 19, 2015 ZBA meeting confirming the foregoing.

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15. By application for an area variance filed on June 25, 2015, Petitioner sought an area variance from the ZBA to allow the expansion of duplex units on less than ten (10) acres and for a decrease in the front yard setback, and also to allow parking in the front of the parcels. Annexed is Exhibit " F" is a copy of such Application.

16. At the July 16, 2015 ZBA meeting, the ZBA insisted that the house in the front be removed prior to any site plan being approved by the Planning Board and prior to taking any action by the ZBA on the variance application of Petitioner. Annexed hereto is Exhibit " G" is a copy of the July 16, 2015 meeting minutes of the ZBA reflecting the forgoing.

17. By application dated October 27, 2015, Petitioner sought an area variance from the ZBA to convert the bungalow colony to a duplex development on a lot size of less than ten (10) acres and to construct a parking lot within the front yard set back. The application was scheduled to be on the November 19, 2015 ZBA meeting agenda; a copy of the Application is annexed as Exhibit "H".

18. Prior to attending the November 19, 2015 ZBA meeting, Petitioner removed the home in the front as required by the ZBA at the July 16, 2015 ZBA meeting.

19. During the course of the November 19, 2015 meeting, counsel for the ZBA advised that Petitioner also required a variance from the 175 setback to the existing duplex building and also a variance for the parking area. A discussion took place as to whether moving the parking area would reduce the number of variances required and counsel for Petitioner attempted to find out from the ZBA whether, if the changes that they were suggesting were made, they would be amenable to granting the variances, since he did not want his client to spend additional money unless he had reason to believe that it would be successful.

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20. Different members of the ZBA provided different opinions as to whether the variances would or should be granted. In order to avoid any further conflict, the application was withdrawn so that further analysis could be made by Petitioner. A copy of the meeting minutes for the November 19, 2015 meeting before the ZBA are annexed hereto as Exhibit "I".

21. By application dated December 1, 2015, Petitioner sought a use variance to convert the bungalow colony to a duplex development on a lot size less than ten (10) acres and for three (3) existing bungalows to remain within the 175 foot setback. A copy of such application is annexed as Exhibit "J". Prior to this application being heard by the ZBA, members of the family of the principal of Petitioner advised that the condition of the premises and structures were in such deplorable condition that they would not live there, even if the buildings were renovated. As a result, Petitioner withdrew its application to re-consider what should be done on the Property.

WHY THE PROJECT CHANGED

22. As evidenced by the meeting minutes annexed to this Petition, it is Petitioner's intent that the property be developed for a family compound. Subsequent to all of the applications before the ZBA and as referenced above, Petitioner was advised by the family members that they would not live in the complex, either as presently constituted or even as improved. In essence, these family members agreed with these statements of various members of the ZBA that the premises were in a very poor condition, unsitely, and not a place where they would be willing to live.

23. As a result of these statements by the family members that they would not live at the premises, Petitioner decided that it would prepare and submit a new site plan, which would involve removing all of the presently existing buildings, including the pool, and replacing them with new, beautiful homes, consisting of seven (7) duplexes, **so that there will still be fourteen (14) living**

units (the same number as existed on the Property before the ZBA directed Petitioner to remove the house) and all of these living units will be new, beautiful and safe.

24. Petitioner then had Glenn L. Smith, P.E. prepare a site plan which depicted the seven (7) duplex homes that Petitioner seeks to develop and which proposed site plan was on the agenda for the June 9, 2016 Planning Board meeting but was not addressed at that time.

25. As the minutes of the meetings of the ZBA, both attached and on the website of the Town of Fallsburg reveal, Glenn L. Smith, P.E. was mistakenly advised that a variance had been granted from the ten (10) acre minimum lot size requirement, and Petitioner recognizes that it will have to obtain a variance from the ZBA for same.

26. The adoption of Local Law #2016 (the Moratorium Law) precludes Petitioner from moving forward with this Project, absent relief from such moratorium.

INAPPLICABILITY OF LOCAL LAW #3-2016/SUBSTANTIAL HARDSHIP TO PETITIONER

27. As set forth above, Petitioner's Project has gotten caught up in a moratorium intended to halt large scale, high density residential developments which could negatively impact the Town and its resources and infrastructure. Petitioner's Project will not have any such adverse affect and, subject to the one area variance required, Petitioner will have the right to complete this Project. Thus, the effect of the moratorium on Petitioner is nothing other than an unnecessary delay in the replacement of fourteen (14) old and unsightly dwelling units in poor condition with fourteen (14) brand new, beautiful, safe units. Requiring Petitioner to await the expiration of the moratorium (which, pursuant to Section2.B of Local Law #3-2016, can be further extended for another six [6] months) would not further or accomplish any of the purposes of Local Law #3-2016; it would only sacrifice Petitioner's desire to replace the units at this time because of the Town's desire to stop any large scale, high-

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density development until it can review and amend its comprehensive plan and zoning and planning regulations, even though Petitioner's Project is not what the Town fears.

28. Petitioner is also seeking relief from the Moratorium due to the fact that it cannot make a reasonable use of its property with any of the uses permitted in the relevant zoning district and/or that the moratorium causes it irreparable injury and it would be unreasonable and unjust not to grant relief from the moratorium.

29. As set forth above, Petitioner removed the home located closest to State Route 42 at the direction of the ZBA, when the ZBA indicated that it would not consider its variance requests unless Petitioner did so. In connection with the removal of such building, Petitioner incurred costs of $35,000.00, including removal of the building, carting fees and inspections.

30. While Petitioner has leased out the premises for the past two (2) summers, it only receives $8,000.00 per year for the entire rental of the premises. Petitioner's expenses for the premises, however, greatly exceed it rental income. Petitioner's expenses for the past two years (not including removal of the home) are as follows:

Expense	Cost
Real Property Tax	$16,350.00
Plumbing	$6,000.00
Insurance	$3,600.00
Electricity	$2,200.00
Water and Sewer	$1,500.00
Manager	$2,000.00
Lawn Care	$2,000.00
TOTAL:	$33,650.00

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31. Accordingly, since the rental only generated $16,000.00 over the last two (2) years, the premises have operated at a loss of $17,650.00 over the past two years. ($33,650.00 - $16,000.00 = $17,650.00). When the $35,000.00 for the removal of the building is added in, it results in a loss of $52,650.00 over the past two years.

32. Unless Petitioner can obtain relief from the moratorium and proceed with its application before the Planning Board and seek the single variance required before the ZBA, it will continue to suffer substantial financial losses which it cannot recoup. If Petitioner can be relieved from the moratorium and obtain the approvals it needs, it will be able to remove all of the structures and the pool located on the property and construct seven (7) new beautiful new duplexes. It will then be able to sell them to the family members, alleviate the severe financial burden it is facing, beautify the area, and make it possible for the family members to enjoy living together in new, safe homes in Fallsburg.

CONCLUSION

33. For all of the foregoing reasons, it is respectfully requested that the Town Board relieve Petitioner from Local Law #3-2016 (and the Moratorium created thereby) so that it may obtain the one variance that it needs from the ZBA and Planning Board approval for its site plan. The desire to replace fourteen (14) existing dwelling units with fourteen (14) new dwelling units is not the reason that Local Law #3-2016 was adopted. In addition, only by the granting of such relief can Petitioner negate the financial drain that is being caused by operating these premises at a loss and the failure and refusal of the family members to agree to live in the existing premises, even if they are renovated.

WHEREFORE, Petitioner respectfully requests that the Town Board of the Town of Fallsburg grant Petitioner relief from the Local Law #3-2016 and the moratorium created thereby and that the

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Project be allowed to proceed before the ZBA and the Planning Board to obtain all of the approvals required for this Project to proceed.

Dated: Monticello, New York
August 23, 2016

THE SUNNY DAY NY LLC

By:_____
Shlomo Karpen

VERIFICATION

STATE OF NEW YORK }
}ss:
COUNTY OF KINGS }

SHLOMO KARPEN, being duly sworn, says that I am the Managing Member of the Petitioner in the annexed Verified Petition, that I know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

Shlomo ~~JOEL~~ KARPEN

Sworn to before me this 23 day of August, 2016.

Notary Public

JOEL T. REICH
NOTARY PUBLIC-STATE OF NEW YORK
No. 01RE6169264
Qualified in Kings County
My Commission Expires June 25, 2019

JOEL T. REICH
NOTARY PUBLIC-STATE OF NEW YORK
No. 01RE6169264
Qualified in Kings County
My Commission Expires June 25, 2019

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GLENN L. SMITH, P.E.
Consulting Engineer, P.C.
Licensed in New York, New Jersey and Pennsylvania

533 Broadway / P.O. Box 156
Monticello, New York 12701
Telephone: (845) 796-2216
Fax: (845) 796-2716

May 25, 2016

Town of Fallsburg Planning Board
5250 Main Street
South Fallsburg, New York 12779

Attn: Arthur Rosenshein, Chairman

Re: Sunny Day Duplex Development
NYS Route 42, (T) Fallsburg
SBL #39-1-77 & 76

Dear Chairman Rosenshein,

Mr. Joel Karpen, owner of the above-noted property located between South Fallsburg and Old Falls, has previously submitted plans for developing that parcel to include renovations to three (3) existing bungalows and construction of several new duplexes, along with related access drives and parking. The property is in the R-1 Zoning District and situated in the town's consolidated sewer and water districts, with existing interconnections to those facilities in N.Y.S. Route 42.

The most recent development plan discussed with town staff includes complete demolition and removal of all existing bungalows, outbuildings and the swimming pool on this parcel, followed by construction of seven (7) duplex homes conforming with all aspects of the town's development regulations except meeting the minimum lot size requirement of 10 acres. The project area is approximately 4¾ acres and it is my understanding the owner has previously obtained an Area Variance from the town's ZBA for that deficiency.

In this regard, I have enclosed ten (10) copies of "Site Plan" sheet #1, dated May 24, 2016, which indicates a total of 14 proposed units in 7 duplex buildings (4.75 acres x 3 units/acre permitted = 14 units allowed). The 175' front yard setback is shown along with a 25' wide undisturbed buffer around the perimeter of the parcel.

It would be appreciated if this matter could be scheduled for your June 9, 2016 planning board meeting for review and discussion.

Thank you.

Very truly yours,

Glenn L. Smith, P.E.

GLS/mdc
Encl.

cc: Joel Karpen
Mollie Messenger, CEO

necessary to obtain outside agency permits. Three, satisfy the Town engineer in regard to meeting fire flow standard and any other water supply issues. It's not central water. Then it goes on to say, now therefore be it resolved the Town of Fallsburg Planning Board, based on the record before it, including the general and specific detailed knowledge of the board of the project and of the community, hereby determines that the project should receive preliminary with certain conditions as enumerated above. We further resolve that the Planning Board grants preliminary subdivision approval with the understanding that the site plan will not be stamped by the Chairman or his designee until all conditions have been met and found to be acceptable by the Planning Board. I entertain a motion.

- MOTION:
- Irv Newmark motions for preliminary subdivision approval. John Makovic seconds. All in favor.

11. LAUREL CREST – SBL# 56-1-1/39-1-90 – Requests site plan amendment from a previously approved site plan for the addition of duplexes. Zone: HR-1. Acres: 20.67. Location: Laurel Ave., So. Fallsburg.

12. SUNNY DAY – SBL# 39-1-76/77 – Requests site plan approval for the removal of all existing bungalows, outbuildings and the swimming pool and allow construction of 7 duplex homes consisting of 14 units. Zone: R-1. Acres: 4.75. Location: Rt. 42, Fallsburg.

OFFICE COPY

ZONING BOARD OF APPEALS
BOX 830
TOWN OF FALLSBURG
S. FALLSBURG, NY 12779

RECEIVED
TOWN OF FALLSBURG
BUILDING DEPARTMENT

APPLICATION FOR AN USE VARIANCE

APPLICANT NAME(S): SUNNY DAY NY LLC PHONE: 917-627-1535

ADDRESS: 155 LORIMER ST. SBL: 39-1-77

BROOKLYN, N.Y. 11206 ZONE: R-1

DIRECTIONS TO THE SITE: RT-42-ON THE LEFT GOING NORTH ACROSS FROM THE CEMETARY, JUST AFTER THE ASSEMBLY OF GOD CHURCH

TO THE ZONING BOARD OF APPEALS:

1. STATEMENT OF OWNERSHIP AND INTEREST:

The undersigned applicant(s) residing at, having a principal place of business at: REGIONAL PLANNING & PERMITS P.O. BOX 216 MOUNTAINDALE, N.Y. 12763 is/are the Owner(s), Lessee(s), or Other as follows: AGENT

2. REQUEST:

1. Section - 130-9.3 F(a)-(b)
2. Concerning Hearing
3. Purpose Variance
4. From NEW FOOTPRINT - INCREASE IS LESS THAN 25%
5. To AND 1 STORY IS BEING ELIMINATED.

Attached hereto is a plan of the subject premises drawn to scale showing the following:

1. Name of record owner(s) of premises and of all adjoining properties.
2. Location of existing structures.
3. Location of proposed structures.
4. Location of all existing and proposed streets or highways.
5. Any other information pertinent to application.

3. REASONS FOR REQUEST:

The applicable zoning regulations and restrictions have caused unnecessary hardship as set forth below.

1. The applicant cannot realize a reasonable return for each and every use under the zoning regulations for this district because (show that the lack of return is substantial as demonstrated by competent financial evidence):

2. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood as follows:

See Attached

3. The requested use variance, if granted, will not alter the essential character of the neighborhood because:

4. The alleged hardship has not been self created because:

Date: _____

Signature of applicant(s)

STATE OF NEW YORK
COUNTY OF SULLIVAN

On the 3rd day of December, 2014 before me came Allen Frishman, to me known to be the individual(s) described in and who executed the foregoing application for a variance and acknowledged that he/she/they executed the same.

SHARON L. STREIT
Notary Public, State of New York
Sullivan County Clerk's #2043
Commission Expires Jan. 27, 2015

Sharon L. Streit
Notary Public

********** NOTE **********

As per section 130.13.6I of the Town of Fallsburg Zoning Law, variances expire 6 months after the date it was granted if no work has begun with regard to the approved variance.

Office copy

ZONING BOARD OF APPEALS
TOWN OF FALLSBURG
5250 MAIN STREET
S. FALLSBURG, NY 12779

APPLICATION FOR AN AREA VARIANCE

APPLICANT NAME(S): Sunny Day H-Y LLC PHONE: 917-627-1535

ADDRESS: 155 LORIMER ST. SBL: 39-1-77

Brooklyn, N.Y. 11206 ZONE: R-1

DIRECTIONS TO THE SITE: RT-42- on the left next to the church of God.

TO THE ZONING BOARD OF APPEALS:

1. STATEMENT OF OWNERSHIP AND INTEREST:

The undersigned applicant(s) residing at, having a principal place of business at: Regional Planning and permits P.O. Box ~~216 Mt. Dale~~ N.Y. is/are the Owner(s), Lessee(s), or Other as follows:
Agent

Section 2 MUST be filled out in its entirety for each section of the code for which you are requesting a variance, in order to be placed on the Zoning Board of Appeals. Use additional sheets as needed.

2. REQUEST:

1. Town of Fallsburg Section: 130-9-3 F(a)-(b)

2. Purpose Variance: to remove old structure and Replace w/ a new tri-plex- increase is over 25% allowance

Extent or scope of variance:
3. from ~~New~~ existing footprint of 1406 to
4. To new unit of 3000 sq. ft. increase of 1594 □'

3. Attached hereto is a plan of the subject premises drawn to scale showing the following:

1. Name of record owner(s) of premises and of all adjoining properties.
2. Location of existing structures.
3. Location of proposed structures.
4. Location of all existing and proposed streets or highways.

5. Any other information pertinent to application.

4. REASONS FOR REQUEST:

The benefit to the applicant as weighed against any detriment to the health, safety and welfare of the neighborhood or community is in favor of the applicant as follows: (Add information for the Board which fully explains the following factors):

1. No undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance because
we are removing a old 2 story Blg. and replacing w/ a new tri-plex set Back from the Rd.

2. The benefit sought cannot be achieved by some method feasible other than the area variance because
It is not feasible to spend any money on the 2 story Blg. It needs to be removed. This is planned ~~to~~ be a family Retreat and is not for any financial gains.

3. The area variance is not substantial because
The footprint of the existing Blg. is 1406 sq ft. The new tri-plex, replacing the 3 apts is 3000 sq ft.

4. The proposed variance will have not an adverse affect/impact on the physical or environmental conditions in the neighborhood/district because
This will improve the visual area w/ the Blgs. removal and replacement w/ a new tri-plex

5. The alleged difficulty was not self created (which shall be relevant but not necessarily preclude the variance) because
It

6. This is the minimum variance deemed necessary and adequate to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because
The 3 apts need to be replaced w/ new suitable housing. This will enhance the area and not cause any detriments

The board of appeals shall, in granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Date: 12/8/14

Signature of applicant(s)

STATE OF NEW YORK
COUNTY OF SULLIVAN

On the 8th day of December, 2014 before me came Allen Frishman, to me known to be the individual(s) described in and who executed the foregoing application for a variance and acknowledged that he/she/they executed the same.

Denise Monforte
Notary Public

DENISE MONFORTE
Notary Public, State of New York
NYS Reg. No. 01MO6182574
Qualified in Sullivan County
Commission Expires February 25, 2016

********** NOTE **********

As per section 130.13.6I of the Town of Fallsburg Zoning Law, variances expire 6 months after the date it was granted if no work has begun with regard to the approved variance.

TOWN OF FALLSBURG
CODE ENFORCEMENT OFFICE
Member: New York State Building Officials Conference, Inc.

5250 Main Street
South Fallsburg, NY 12779
(845) 434-8811
Fax: (845) 434-5883

MOLLIE MESSENGER
Code Enforcement Officer

Owners Proxy

(Owner) Shlaime Karpen deposes and states that he/she resides at:

city mailing address 123 Middleton St
Brooklyn N.Y. 11206

And that he/she is the owner of the premises described in the attached application for a Building and/or Zoning Permit, and further states that he/she has authorized Regional Planning & Permits to make said application, secure any necessary permits and approvals, call for inspections, and request a Certificate of Occupancy upon satisfactory completion of the work described in said application.

Date: 11/24/14

(Owners Signature)

(Witness' Signature)

- Jason Pantel: Its condemned right?
- Allen Frishman: That's what I was told. What he wants to do is take that down and in the back of the property, in my drawing its in yellow, in the new one its drawn out to left of the pool, a new triplex unit. The owner took title today, his intentions to keep this within family and friends, and basically its tearing down this old and putting up a triplex in back, no basement, just 2 feet off grade, very simply. 50 by 60.
- Paul Lucyk: After the house and shed are removed, and the new unit is built, they're down to 13% on lot coverage, so that's all they can do.
- Allen Frishman: They still have 2%, I don't know what they'll do. He did talk to me about adding some small bump outs on some of the units but I told him I'd have to come to the board. But one step at a time.
- Jason Pantel: You have people that live here year round?
- Allen Frishman: There are a couple year round units.
- Jason Pantel: Are you going to stay there year round, is he going to continue to rent it?
- Allen Frishman: He may have people there watching the place, all year round, but I don't think its going to be the same clients anymore. I think the only winterized buildings are that one and the one to the left of the driveway. The others, I think, are just seasonal units.
- Jason Pantels: How many units are in each building?
- George Sarvis: The majority of them are duplexes, I think there's one triplex.
- Allen Frishman: The one to the left, it says bungalow, is the triplex.
- Jason Pantel: The long one?
- Allen Frishman: Nope that's a duplex because the owner lives in that. The only triplex is the one that has a 70 foot measurement next to it. The others are duplex.
- Jason Pantel: You have no side variances that you're looking for, you're well within the...
- Allen Frishman: We're within the parameters. Like I said...
- Jason Pantel: I'd like to see a general clean of this property period, it's a junky place.
- Allen Frishman: We're still within the lot coverage, we're still within the setbacks. It's the increase of the 25% of the existing 2 story building and that's why we're here, because the new building square footage is 3,000 compared to 1,406.
- Richard Levine: It says with the shed it's 1,577. The house and shed to be removed.
- Allen Frishman: That's the total square footage of impervious surface but then we're going to add the new buildings, when you balance it out we're still below the 13% but the question is what is the wood frame building, I just mentioned is 1,406. We're sort of doubling the size of the footprint.

- Jeff Kaplan: Thank you.
- Steven Burke: You're welcome. George I'm going to submit the map with all the pencil marks. I wrote which ones were approved and which ones were denied.

2. SUNNY DAY NY LLC – SBL# 39-1-77- Requests a use/area variance to replace and relocate an existing 2 story building with 3 units with a triplex building with over 25% increase in size. Zone: R-1. Location: Rt. 42, Fallsburg.

- Allen Frishman represented.
- Allen Frishman: At the last Zoning Board meeting, we had some requests about square footage of the units, that's been added. There's a table on the top right hand corner. You also wanted the separation distances, which the engineer labeled in between the units that were close we have that between some of the sheds and the distances of the unit K next to the property line. You also have the distance between our proposed triplex to the property line and the pool. You also asked us to show some parking, which we showed up the driveway, so we'd like to move ahead with getting the variance. The reason we are requesting to refresh your memory, the two story building up front, the wood frame house is going to be removed and we want to replace it with an upgraded building in the back where the triplex is to be located.
- Paula E Kay: The only variance you're requesting is the percentage increase in size.
- Allen Frishman: Yes the percentage increase of the wood frame house. I think we do have to go to the Planning Board for site plan approval. I think I did answer your questions from the last meeting.
- Steven Burke: Any violations George?
- George Sarvis: Just that front building is condemned. That's all we have documented.
- Allen Frishman: That's what we want to remove. The wood frame house we want to tear down and put the replacement in the back. You'll have the access road put in, you'll have the parking, the dimensions, it meets the side yard requirements.
- Jason Pantel: This has been an eye sore for a long time. You want to put in a new building before you fix up any of the other ones.
- Allen Frishman: We want to start that by taking down the building closest to the road, they're going to do it step by step.
- Jason Pantel: Do you think it'd be possible to go in reverse and clean these up and then work on something new.
- Paula E Kay: Do you have your mailings?
- Allen Frishman: I did that two months ago.
- Discussion.

- Allen Frishman: We want to take this down, and put this up. There's 3 existing apartments.
- Paula E Kay: Folks, remember we're doing this for the tape. One at a time.
- Allen Frishman: I'm not going to disagree that the others need work, but it's not as bad as this one, we just purchased this one. We've got to do it in steps. Taking down the building alone is going to cost an arm and a leg.
- Jason Pantel: The house has to be torn down regardless of what happens. The fact that it hasn't been torn down to date, the town should have acted on that sooner. To me, that's where it stands as far as that goes. You just bought it, spend all this money, it's been like this 20 years, I can't believe people live here. I've seen the front steps of bungalow G are leaning to the side, at a 30 degree angle. I can't believe anybody walks up them.
- Allen Frishman: I think there's going to improvements on the units since there is a new owner.
- Steven Burke: Anybody have any questions?
- Jason Pantel: I think we should demand some kind of improvements on the other ones before we go forward with a brand new buildings,
- Paula E Kay: Are there any violations on the other buildings?
- George Sarvis: No.
- Jason Pantel: I can't believe that.
- Steven Burke: There are none. We'll open it up to the public. Anybody from the public want to speak? Okay, we'll close the public portion. Board comments? Got the paperwork George?
- Jason Pantel: I think that house in that picture looks better than the 3 other bungalows.
- Allen Frishman: Couldn't get a good picture of the badness of the bungalows because of the shrubs.
- Steven Burke: Lead agency?
    - MOTION:
    - Peter Frunzi makes a motion for lead agency. Jason Pantel seconds.
    - MOTION:
    - Peter Frunzi makes a motion for negative dec. Joe Puccio seconds. All in favor.
- Steven Burke: Let's run down. Whether an undesirable change will be produced in the character of the neighborhood.
- All board members say no.
- Steven Burke: Can the benefits sought be achieved by other means?
- 1 board member says no, all others yes.
- Steven Burke: Whether the requested area variance is substantial.
- All board members say yes.

- Steven Burke: Whether the proposed variance will have an adverse, physical, or environmental effect?
- All board members say no.
- Steven Burke: Was the alleged difficulty self-created?
- All board members say yes.
- Steven Burke: Do I have a motion to approve or deny?
    - MOTION:
    - Peter Frunzi makes a motion to approve. Joe Puccio seconds. Tammy Pratty approves, Steven Burke and Jason Pantel deny. Motion approved.
    - MOTION:

- MOTION:
- Jason Pantel makes a motion to adjourn. Peter Frunzi seconds. All in favor.

NEW APP

OFFICE COPY

RECEIVED
JUN 25 2013
TOWN OF FALLSBURG
CODE ENFORCEMENT

ZONING BOARD OF APPEALS
TOWN OF FALLSBURG
5250 MAIN STREET
S. FALLSBURG, NY 12779

APPLICATION FOR AN AREA VARIANCE

APPLICANT NAME(S): SUMMA DAY MT LLC PHONE: 917-627-1535

ADDRESS: 155 LORIMER ST. SBL: 39-1-77

BROOKLYN, N.Y. 11206 ZONE: R-1

DIRECTIONS TO THE SITE: 5499 RT. 42 - ON LEFT SIDE OF RD. GOING NORTH PAST GAMBLE RD.

TO THE ZONING BOARD OF APPEALS:

1. STATEMENT OF OWNERSHIP AND INTEREST:

The undersigned applicant(s) residing at, having a principal place of business at: REGIONAL PLANNING & PERMITS P.O. BOX 216 MOUNTAINDALE, NY 12763 is/are the Owner(s), Lessee(s), or Other as follows: AGENT

2. REQUEST:

1. Section - 310-5.30 DUPLEX LAW
2. Concerning Hearing
3. Purpose Variance - ALLOW EXPANSION OF DUPLEX UNITS, ON LESS THAN 10 ACRES. - A-(17-(C) FRONT YD. SETBACK REDUCTION
4. From 175' FRONT YD. / 10 ACRES PARKING IN FRONT 40.3-(9)[1]
5. To 87.9' (EXISTING SET BACK 89.5) - EXISTING 3.831 acres

Attached hereto is a plan of the subject premises drawn to scale showing the following:

1. Name of record owner(s) of premises and of all adjoining properties.
2. Location of existing structures.
3. Location of proposed structures.
4. Location of all existing and proposed streets or highways.
5. Any other information pertinent to application.

3. REASONS FOR REQUEST:

The benefit to the applicant as weighed against any detriment to the health, safety and welfare of the neighborhood or community is in favor of the applicant as follows: (Add information for the Board which fully explains the following factors):

1. No undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance because
THERE BE A HUGE BENEFIT BECAUSE OF 2 OF OLDER BLGS. WILL BE REMOVED

2. The benefit sought cannot be achieved by some method feasible other than the area variance because
THE BLGS. ARE IN THESE EXISTING LOCATIONS AND CANNOT BE MOVED BACK

3. The area variance is not substantial because THE DRAWINGS SHOW A 25' SETBACK FROM THE CENTER OF THE RD. IF YOU ADD THIS TO THE EXISTING DWELLING 6-K IT IS 114.5 FROM THE PROPERTY LINE

4. The proposed variance will have not an adverse affect/impact on the physical or environmental conditions in the neighborhood/district because
THIS IS THE PROCESS OF TRANSFORMING AN OLD BUNGALOW COLONY/WINTER RENTALS TO AN UPGRADED COMPLEX. VISUAL THERE WILL BE A TREMENDOUS IMPROVEMENT ALONG W/ THE LANDSCAPED BUFFER

5. The alleged difficulty was not self created (which shall be relevant but not necessarily preclude the variance) because
THIS IS A SITUATION WHERE THE APPLICANT AND THE OTHERS WANTING TO USE THIS COMPLEX DO NOT HAVE THE AVAILABITY OF SEASONAL RENTALS BUNGALOW COLONIES. THEY ARE DISAPPEARING IN THE AREA. THIS IS THE ONLY ALTERNATIVE, BY WHATS LEFT AND IMPROVE & RENOVATE

6. This is the minimum variance deemed necessary and adequate to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because
THIS IS THE IDEAL NUMBER OF UNITS NEEDED TO PROPERLY OPERATE THIS DEVELOPMENT. THE UPGRADE EXPANSION TO THE OLD BUNGALOW COLONY OUTWAYS THE LESSER ACERAGE. THE SETBACKS WILL IMPROVE W/ THE 2-UNITS ELIMINATION
IT IS IMPRACTICAL TO PUT THE PARKING LOT IN THE REAR WHICH WOULD CREATE A PEDESTRIAN HAZARD. THE BUFFER WILL BE SUBSTANTIAL.

The board of appeals shall, in granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Date: 6/25/15

Signature of applicant(s)

STATE OF NEW YORK
COUNTY OF SULLIVAN

On the 25th day of June, 2015 before me came Allen Fishman, to me known to be the individual(s) described in and who executed the foregoing application for a variance and acknowledged that he/she/they executed the same.

Notary Public

DENISE MONFORTE
Notary Public, State of New York
NYS Reg. No. 01MO6182574
Qualified in Sullivan County
Commission Expires February 25, 2016

REGIONAL PLANNING & PERMIT CONSULTANTS I.N.C.

Allen Frishman • President

P.O. Box 216, Mountaindale NY 12763

SUNNY DAY NY VARIANCE 6/23/15

In Feb. of 2015, the zoning Board approved Sunny Day LLC's request for a new tri-plex to replace and older unit at the front of the property. Sunny Day considered many of the points discussed at the meeting and redesigned the entire project based on the suggestions. A recent submission was made but the Town considered the project to be reviewed under the Duplex law. We are in front of the board with this new application for:

Replacement of unit I to be removed, it is currently a triplex with a new duplex unit further in the back ,unit 2.

Units 3,4,5,6 all existing duplexs will be renovated and an increase in sq footage is being requested. Unit K/6 41% Unit D/5 31% Unit G/4 62% Unit H/3 33%

Currently, unit H/3 is a duplex with an attached assembly space. We will continue to use this assembly space for the complex, but enlarge the 2 units to be in conformity of the duplex code.

The setback requirement of 175 feet cannot be met because of the existing building locations. When the 2 units are removed it will actually be improved. The closet distance to the property line will be 87.9' for unit 6/K from 69.5'. With the proposed addition "squaring off" the unit's setback decreases by only 2.5 feet to 87.9'.

The site plan shows new landscaping that will be installed to help provide screening of the proposed parking lot. This will be developed as a serpentine earthen berm and a dense planting of evergreens and other appropriate landscape materials. We want the complex to "disappear" from view from the public. A much better appearance then what is there now with the existing older buildings.

The fire flows along this portion of Rt. 42 are over 2000 gal/ min. (a letter has been provided to the blg. dept. from Will Illing with this information. This helps to comply w/ the existing setbacks between units. the closet being 27 existing and 26.3 proposed between units G & H.

W (845) 436-8945
C (845) 807-4151

Email quickandeasypermits@gmail.com
Website www.quickandeasypermits.com

The board had requested that we show ample parking. We are in compliance with the parking requirements of 2 ½ spaces/ unit providing 39 This includes visitor parking.

Thank you

Allen Frishman

the Planning Board, then we push back a month because of interpretation of the code.

- Jason Pantel: Honestly, this garage and these trailers have been there a long time. The only reason you're taking them down is because you're under pressure. If you were going to be stand up about it, this would have been remedied a long time ago. It doesn't need to wait until the summer when you need something else done to be tore down. With all due respect, we ask you to do one simple thing, and now we're back here negotiating.
- Allen Frishman: It's not a simple thing to take down 3 buildings at once, budgetary wise.
- Steven Burke: That's not an issue for this board to discuss.
- Paula E Kay: Since it has to go out for 239 anyway, why don't you guys send it and in the meantime you can continue, and George can go and look at the trailer.
- Steven Burke: Let's table it, George will look at the inside of the trailer, and it will be great if you complied with what we asked you 30 days ago and do a little more than what you absolutely have to do. You should have come back here with the 2 trailers and the house.
- Allen Frishman: I will try very hard to get a second trailer done.
- Steven Burke: I would look to get 2 trailers removed and let George see what that other trailer looks like. We're going to table it for a month, and we'll have the 239 by then, and if that other trailer is good, 2 more trailers out of that. See you next month.

NEW BUSINESS:

1. SUNNY DAY NY LLC – SBL# 39-1-77 – Requests an area variance to allow the expansion of duplex units on less than 10 acres and to reduce the front yard set back from the required 175 feet to 87 feet. Applicant is also requesting a variance to allow parking in front. Zone: R-1. Acres: 3.83. Location: 5499 Rt. 4, Fallsburg.

- Allen Frishman represented.
- George Sarvis: Allen you have mail?
- Allen Frishman: Yeah. Okay, we did get approvals in February for the triplex in the back.
- Jason Pantel: This is the family development?
- Allen Frishman: Yeah. The owner would like to increase the square footage of the existing units, and he's taking down as you suggested another building, the ones crossed in red, those 2 buildings would disappear.
- Jason Pantel: Isn't the one supposed to disappear from the last variance? Did that happen?
- Allen Frishman: No, there was no time frame set but it will disappear.
- Jason Pantel: After you get this approved?
- Allen Frishman: No. This is the next to be removed.
- Jason Pantel: But this one isn't gone yet?
- Allen Frishman: No
- Steven Burke: This isn't going anywhere, neither.

- Allen Frishman: You suggested showing parking availability. The variance tonight is to ask for....we took down the front building was a trade-off to build the triplex in the back. We're asking to do the same thing for another duplex. And he asked for one more duplex, and 2 square these off and...
- Jason Pantel: I thought this was a family compound?
- Allen Frishman: That's what I was told.
- Jason Pantel: Any reason why there is all the bungalow for rent signs out front?
- Allen Frishman: He doesn't have it set up for his family, this is just for the season to get some income. When it's set up as the complex he wants, it's for his family and friends.
- Paula E Kay: What will be the total unit count be?
- Allen Frishman: Total unit count....
- Paula E Kay: There's somewhat of a discrepancy on the table and the map.
- Allen Frishman: The total count will be 15.
- Jason Pantel: 15 individual units.
- Allen Frishman: Some of them are duplexes. This is the placement, this is the only new one he is asking for.
- Paula E Kay: On your map, there is a 25 foot natural buffer, on your map for New Pines or Tribecca, this is shown as a utility easement.
- Allen Frishman: I think it is improper on their part. Don't we have to keep a 25 foot buffer, in a duplex development?
- Paula E Kay: You do.
- Allen Frishman: I know. So they have to because it's our property that's why we provided a 10 foot space to bring their sewer and water lines up beyond the 25 feet.
- Paula E Kay: You don't show that on here though.
- Allen Frishman: I don't show that because he has to go to the Planning Board. There's enough room for the sewer and water lines. Pines has been misrepresenting by showing what they want.
- Paula E Kay: For this variance, if there is an easement running through it, they need to see it to see how it will impact the side lots.
- Allen Frishman: I told everyone involved, between the Pines and Sunny Day, that you can't put anything in the 25 foot buffer. He left the 25 foot as a natural buffer, there's enough room and the units have enough space to put the line in within the property. These units were shifted in so that the sewer and water line could run up that way. I said, you need that and you need to move those over. It's a done deal.
- Steven Burke: But you're not showing those units moved over.
- Allen Frishman: I can add that to the map.
- Paul Lucyk: Where is their access?
- Allen Frishman: I have no idea where it is. I don't know what the deal is exactly, all I know if they are trying to get the water and sewer line up this property instead of going up Gamble

Road. I don't know the full story of why.

- Paula E Kay: I have the easement, Jay Zeiger sent it to me today. We don't have the description, but I do have the utility easement, it was executed by both parties. If it was executed, we definitely have to show it on this map before this board can take any action.
- Allen Frishman: Do you know if it was executed in the 25 foot buffer? We will find that out.
- Paula E Kay: There is a map attached, I can forward it to you.
- Steven Burke: Do you want 30 days to come back with a new map?
- Allen Frishman: If it's just a revision for the easement, I guess so. Is it possible to send for a 239 in the mean time?
- Paula E Kay: Except we're not really showing the County what is there.
- Paul Lucyk: I don't know about the deal about the right of way for utilities, going back to the property behind, is there going to be a road going through here?
- Discussion.
- Richard Levine: They're supposed to send a letter to the fire district, and the fire district is supposed to review it.
- Allen Frishman: There's no road intended to go up there to service the Pines. It was discussed months and months ago, I advised against that. It's for a utility line. I advised my client to leave the space so he doesn't touch the 25 foot space. If they put in there, I can't say, I can only advise.
- Richard Levine: Have you sent anything to the fire district so they can review this plan?
- Allen Frishman: Not yet, I thought we do that with the Planning Board?
- Jason Pantel: It'd be nice to see this building that you're supposed to tear down done before you come in for another variance.
- Allen Frishman: Okay.
- Steven Burke: It shows good faith. You were here and didn't do what we asked you to do and now you want more.
- Allen Frishman: I did some.
- Steven Burke: You did very little. You promised you'll do it next time so I hope it is done.
- Allen Frishman: On this one you're asking me to take down the front building before we...
- Jason Pantel: That's separate, that was issue before this. You were supposed to tear that down right away.
- Allen Frishman: We didn't have a time frame.
- Jason Pantel: We won't make the mistake again.
- Steven Burke: When we give you leeway, not just you but most people that come here, they don't do the right thing unless we make them do so.
- Allen Frishman: I understand.
- Steven Burke: I don't like because people aren't straight with us.
- Paul Lucyk: What kind of condition are these buildings in?
- Jason Pantel: One is condemned.

- Allen Frishman: That one is condemned, the second one...is that being used this summer?
- Audience: Yes.
- George Sarvis: It's condemned already.
- Paul Lucyk: Is there a permit for building I to operate? Right in the parking lot.
- George Sarvis: That's a preexisting bungalow?
- Allen Frishman: Yeah.
- George Sarvis: We did a multi-family inspection in there, the previous owners had to do some electrical upgrades, smoke detectors. They're habitable by all the minimal requirements, they don't need a permit for it, but they did get a multi-family inspection and they are able to use it.
- Steven Burke: Okay.
- George Sarvis: The J house has to come out immediately, it should have been out 2 years ago.
- Steven Burke: All we're asking is to show some good faith, we have no problem helping you out. Unfortunately we have to look for something because you won't move unless we trade something for ya. Even when we do trade, you still don't move, and it's not going to be that way anymore.
- Paul Lucyk: While you're doing everything, think about access for the fire truck. There has to be access to get all the way in the back for the fire trucks for the new triplex that's being approved, that you have access to get back there.
- Jason Pantel: This is not actually the drawing that was approved.
- Paul Lucyk: That I don't know.
- Allen Frishman: You asked us and we showed you to have the driveway to have access for the property.
- Paul Lucyk: Okay. Is that building up now?
- Allen Frishman: No nothing has been done. They just took ownership in the spring. That's why you see the rented sign, they're trying to get supplemental income. I have your assignments.

2. <u>WOLF SCHREIBER – SBL# 39-1-84</u> – Requests a use variance to allow a replacement unit over the 25% increased size from 1533 S.F. to 1985 S.F. Zone: REC-1. Acres: 6.76. Location: Gamble Rd. & Rt. 42, Fallsburg.

- Allen Frishman represented.
- Allen Frishman: Wolf couldn't be here tonight, he is having open heart surgery. This application is for the one old unit in the middle of the property. He wants to replace it with

office copy

ZONING BOARD OF APPEALS
TOWN OF FALLSBURG
5250 MAIN STREET
S. FALLSBURG, NY 12779

APPLICATION FOR AN AREA VARIANCE

APPLICANT NAME(S): The Sunny Day NY LLC PHONE: 917-627-1535

ADDRESS: 329 Hewes Street, 3rd Floor SBL: 39.-1-76 and 77

Brooklyn, NY 11211 ZONE: R-1

DIRECTIONS TO THE SITE: 5499 State Route 42, near Gamble Road

TO THE ZONING BOARD OF APPEALS:

1. STATEMENT OF OWNERSHIP AND INTEREST:

The undersigned applicant(s) residing at, having a principal place of business at: 329 Hewes Street, 3rd Floor; Brooklyn, New York 11211 is/~~are~~ the Owner(s), Lessee(s), or Other as follows: Owner

Section 2 MUST be filled out in its entirety for each section of the code for which you are requesting a variance, in order to be placed on the Zoning Board of Appeals. Use additional sheets as needed.

2. REQUEST:

1. Town of Fallsburg Section: Duplex Development Law

2. Purpose Variance: Convert bungalow colony to duplex development - Lot size of less than 10 acres (site is 4.748 acres). Construct parking lot within front yard setback.

Extent or scope of variance:

3. from 14 Bungalows
4. To 7 Duplex Buildings (14 living units)

3. Attached hereto is a plan of the subject premises drawn to scale showing the following:

1. Name of record owner(s) of premises and of all adjoining properties.
2. Location of existing structures.
3. Location of proposed structures.
4. Location of all existing and proposed streets or highways.

5. Any other information pertinent to application.

4. REASONS FOR REQUEST:

The benefit to the applicant as weighed against any detriment to the health, safety and welfare of the neighborhood or community is in favor of the applicant as follows: (Add information for the Board which fully explains the following factors):

1. No undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance because
Old bungalow buildings will be replaced with new or renovated duplex buildings. Number of living units will remain at 14.

2. The benefit sought cannot be achieved by some method feasible other than the area variance because
Site is less than 10 acres as duplex law requires. Bungalow colony cannot be modified as all bungalow colonies are nonconforming.

3. The area variance is not substantial because
1. Number of living units will remain the same.
2. Site will be significantly improved - old bungalows replaced with new or renovated buildings.

4. The proposed variance will have not an adverse affect/impact on the physical or environmental conditions in the neighborhood/district because
All work will be performed within existing bungalow colony. Drainage and water and sewer will be reviewed by Planning Board and Town Engineer.

5. The alleged difficulty was not self created (which shall be relevant but not necessarily preclude the variance) because
All bungalow colonies are nonconforming based upon Town Law enacted after the bungalow colony existed.

6. This is the minimum variance deemed necessary and adequate to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because
Number of living units will remain at 14 so density will remain the same.

The board of appeals shall, in granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Date: 10/27/15

Signature of applicant(s)

STATE OF NEW YORK
COUNTY OF SULLIVAN

On the 27 day of October, 2015 before me came Shlomo Karpen, to me known to be the individual(s) described in and who executed the foregoing application for a variance and acknowledged that he/she/they executed the same.

Notary Public

JOEL T REICH
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01RE6169264
QUALIFIED IN KINGS COUNTY
MY COMMISSION EXPIRES JUN 25, 2019

********** NOTE **********

As per section 130.13.6I of the Town of Fallsburg Zoning Law, variances expire 6 months after the date it was granted if no work has begun with regard to the approved variance.

THIS FORM MUST BE FILLED OUT IF YOU ARE GIVING SOMEONE ELSE PERMISSION TO ACT ON YOUR BEHALF DURING CONSTRUCTION

OWNERS PROXY

(Owner) Shlomo Karpen deposes and states that he/she resides at:

329 Hewes Street, 3rd Floor
Brooklyn, NY 11211

And that he/she is the owner of the premises described in the attached application for a building permit/zoning application/planning board application and further states that he/she has authorized Jay Zeiger and Alan Frishman to make said application, secure any necessary permits and approvals, call for inspections, and request a certificate of occupancy upon satisfactory completion of the work described in said application.

Date: 10/27/15

Owners Signature

Witness' Signature

- George Sarvis: Mailings are good.
- Steven Burke: Let's go down the questions. Whether the benefit can be achieved by other means feasible to the applicant?
- All board members say yes.
- Steven Burke: Undesirable change in the neighborhood character or nearby properties?
- All board members say no.
- Steven Burke: Whether the request is substantial?
- All board members say no.
- Steven Burke: Whether the request will have adverse physical or environmental affects?
- All board members say no.
- Steven Burke: Whether alleged difficulty was self-created?
- All board members say yes.
- Steven Burke: Do I have a motion?
    - MOTION:
    - Peter Frunzi motions to approve. Jason Pantel seconds.
    - All in favor.
- David Goldstein: Do they need a building permit?
- Paula E Kay: Yes it's not an agricultural zone.

3. THE SUNNY DAY NY LLC – SBL# 39-1-76/39-1-77 - Requests an area variance to convert an existing bungalow colony to a duplex development on a parcel that is under 10 acres. Requests an area variance to construct a parking lot in the front yard set back. Zone: R-1. Acres: 4.74. Location: 5499 SR 42, Fallsburg.

- Jay Zeiger and Allan Frishman represented.
- Jay Zeiger: This project has been before you multiple times now, I'll go over the history. The site is currently what you're looking at here. It's an existing bungalow colony. These buildings are all existing. The last time they were here, they got approval to put a triplex unit over here. Up over here is the New Pines Tribecca development recently approved by the Planning Board. Part of the approval from the PB was to run from the Tribecca the utility lines, run through this property from Tribecca through this property. For the trade off for allowing Tribecca to run their utilities, this piece is being chopped off the Tribecca parcel and given to Sunny Day. So now they are at 3.83 acres, after the chopping off they will be at 4.78 acres. They got a variance to put that triplex in which would have actually added 3 units...
- Allan Frishman: We weren't adding three units if you recall. The 2 buildings in the front, we took down 1 that was one of the conditions. You said take the building down or you didn't want to hear anything. In liu of taking the building down, the idea of getting the triplex was a trade off of 3 for 3.

- Jay Zeiger: These 2 buildings are the ones that are coming down, 1 is gone, they're both going to be done. This is the new proposal we want you to see. We would like to come back to the Planning Board with. These 2 are existing, or these 3 buildings are existing. They're going to be renovated and converted into duplex houses. This is an existing duplex that is being renovated. These 3 are being added. When I talked earlier about the Tribecca utilities running through, this is where they're going to be running through. This parcel. Under the duplex law there is a 25 foot buffer. This is where the road is going to be and also the Tribecca utilities.
- Paula E Kay: When you do that, what I don't see and I know Mollie asked for, what exact variances are you looking for?
- Jay Zeiger: There are 2 variances we're looking for. The first is under the duplex law, the duplex lot has to be 10 acres or more. We are 4.748 acres. That's the first variance. The second variance, these 3 buildings which are existing...
- Paula E Kay: D, G, and H?
- Jay Zeiger: They're marked 3, 4, and...
- Allan Frishman: You don't have the other plans?
- Jay Zeiger: There were 2 plans. She has it. These 3 buildings we're talking about. This over here...
- Paula E Kay: For the board....
- Jay Zeiger: The duplex law has a 175 foot set back. That's the one that you see over here, within that set back, are the 3 existing buildings which we are existing, but what we want to build within the set back is the parking area over here. The two variances that I think we need is one for the duplex development on less than 10 acres, and two to put the parking area in the 175 foot buffer, what's happening in the buffer are the 2 buildings on the old map, this one was removed, these 2 are coming down. The parking lot is going at that location. As for a trade off for building in that location, they're going to build a burm to screen this.
- Allan Frishman: If you remember at the last meeting, at the end, there was a discussion about why the Tribecca property was showing a pipeline in the 25 foot buffer. Since that time, we had a meeting with the staff, and it was determing....my client was misinformed unfortunately that that could be done, I explained an undisturbed buffer will remain undisturbed.
- Jay Zeiger: Over here, this is the 25 foot buffer. Over here. The road is this area over here, which is outside the 25 foot buffer and the Tribecca utility will go under that road.
- Allan Frishman: After that meeting, we redesigned the whole project. Actually, we took some of the comments from the board to improve the looks. What we've done is redesigned it by putting this road on the side, we had put our parking in different areas. We have some here, we have some here. The parking lot in the front is not going to be as big as we proposed on our drawings. Typically what you'll get in the 175 foot buffer is someone coming in front of you saying we have a new project and we want to put

something in there. You have to remember, this was an existing bungalow colony, we're taking down the one 2 story building. We're going to take down another. The height of the cars is a lot less. We're going to put a burm in the front, probably 2 or 3 feet with plantings on top which will hide the parking lot. We're getting rid of 2 ugly buildings, yes we're putting in a parking lot, but we're going to screen it appropriately. Everybody gains on that.

- Steven Burke: Were those buildings inhabitable?
- Allan Frishman: One was, this past summer. The other one was...
- Jay Zeiger: The other one could have been habitable.
- George Sarvis: If we applied minimal code standard they could be made habitable.
- Jay Zeiger: These 3 buildings which are now existing are now being renovated and being made much nicer.
- Steven Burke: The parking lot you want to add is not in the buffer.
- Allan Frishman: We're saying because we took down the 2 units, we'll be able to put a smaller parking lot in the front, screened enough so you won't see it and so the other buildings have a higher elevation than a car does. We're eliminating the eye sores, but we're putting some of the parking in the front. We're trying to balance everything out with a much better design than we had before. We're using the original driveway cut. We turned the cars facing Route 42 so there is a complete line of unparked section behind the cars for fire accessibility.
- Jason Pantel: How does a fire truck turn around in there?
- Allan Frishman: Not in the parking lot. This is a conceptual plan. At the very end we'll have enough property to put a turn around at the top.
- Jason Pantel: Why isn't there everything at the top here? Why is everything packed into 3.8 acres?
- Jay Zeiger: Just to keep these three buildings within the proximity of these other buildings. These buildings are totally in compliance, they're all out of the buffer, they meet the set back. They meet the requirements. This land is being added to replace the land that they lost.
- Jason Pantel: Paula, how can you just put up duplex units without being on one big piece of property?
- Paula E Kay: Essentially what they're doing is converting the existing bungalow colony to a duplex development. By doing so they have to abide by all of the code requirements for the duplex law, that's why they're talking about the buffer, because the buffer zone for the duplex is 175 feet.
- Jason Pantel: My point is why wouldn't you have to subdivide this onto their own lots?
- Paula E Kay: Because it falls under the duplex law? Or under an existing bungalow colony?
- Jay Zeiger: This will be converted and developed as a condominium.

- Allan Frishman: It was decided by staff that when we came back after the we got the first triplex approved by this board, that it would be better that you'd be better off following the duplex law instead of continuing as nonconforming bungalow colony. That's why we have the 25 foot side yard, the 175.
- Paula E Kay: It is more restrictive.
- Jason Pantel: What are the taxes on this property now? My point is you're building year round condominiums. 2,300 square feet so that would be 1,650 square feet?
- Jay Zeiger: The taxes on this property would probably be 3 or 4 times what they currently are.
- Jason Pantel: My point is that a 1,600 square foot house on a lot would probably be about $4,000.00. So you're going to have 12 units? I find it very uncommon that you'd build a year round house....is this a co-op?
- Jay Zeiger: Under the New York State building code, everything built today has to be built to year round standards. The expectation that this is going to be fully occupied everyday during the season starting from June to mid-September.
- Jason Pantel: How are you able to build this many house on 3 acres?
- Paula E Kay: With a variance?
- Jason Pantel: I am talking just in general.
- Jay Zeiger: The site is almost 5 acres. Under the zoning in that area, under the duplex zoning, it is 3 per acre.
- Jason Pantel: I lived in Emerald Green in the townhouses. I owned my half of the house and the lot it sat on.
- Jay Zeiger: That's what it's going to be here.
- Allan Frishman: It's not going to be a subdivision, it's not going to have its own tax lots. It's a cop-op, there will be individual owners.
- Jay Zeiger: It's probably going to be a condominium.
- Allan Frishman: I don't know if they can do that.
- Jay Zeiger: Why not?
- Allan Frishman: Because of the construction and everything.
- Steven Burke: You guys have to let us know what you're going to do be doing.
- Jason Pantel: Originally this was going to be a family compound and now it is a commercial venture.
- Allan Frishman: I spoke to him about that. His answer was that it is a group of my relatives that want to share this property and some very close friends. It's not a commercial venture.
- Jason Pantel: There are for sale signs out there now.
- Allan Frishman: Because it was a bungalow colony..
- Paula E Kay: Let me say this, if it is a co-op or condo they are going to have to do a filing with the attorney general, and that filing has to come here for the town to review as

well. The town will know what kind of animal it is and to make sure that everything is filed with the attorney general complies with site plan. We have had a few in the past that were filed with differences. We have to make sure.

- Allan Frishman: If I'm not mistaken there can be no judgement of approvals if it this tax base or that tax base.
- Steven Burke: Let me address that. You are right. We don't make our decision on tax or tax exempt. I think what he was trying to say was getting the town more buck for their properties.
- Allan Frishman: I can tell you right now that a bungalow rate right now is a lot less.
- Jason Pantel: I live here in Fallsburg, the world I live in you don't build a house unless you own the property it is on. The value of the house is nowhere near as a valuable on a single family, or a duplex on their own individual lots.
- Jay Zeiger: There are people who disagree. The property values....most of the apartment buildings in Manhattan are co-ops or condos. It will be either a co-op or a condo.
- Paula E Kay: Those completely different, those are vertical.
- Jay Zeiger: What I think the evaluation and getting off on tangents, this is what exists today and 1 of these buildings had to come down, 2 of them are coming down. If they went today to build what is already approved, you're talking about tearing down these 2 buildings and building a triplex over here. Instead of building the triplex, we're building these three, we're completely renovating all these buildings. If you do a comparison of where they are today and where they want to go, it's a much nicer development, and if you want to throw in the tax revenue, it will make much more.
- Allan Frishman: I also want to add when we started with this, it was 14 units and it's still 14.
- Jason Pantel: They're 3 or 4 times the size.
- Paula E Kay: Speaking of the size, is there lot coverage?
- Jay Zeiger: With the additional piece added to that, the lot size is 203,000 square feet.
- Jason Pantel: It says here that a minimum of 14,500 square feet of lot area shall be provided per dwelling unit for a proposed duplex in the R-1 residence district. That's 14,5000 times 12 units. Or 14? 203,000 square feet. What do you have for property?
- Jay Zeiger: 203,000 square feet.
- Jason Pantel: Area to be acquired? Is it acquired yet?
- Paula E Kay: They have an agreement. Because of that right of way.
- Jason Pantel: You're not in 203,000 square feet until you have that property?
- Jay Zeiger: The conditional of the approval is that it be acquired. This is the project with that piece in it.
- Jason Pantel: I think there are a lot of variances that need to be addressed.
- Steven Burke: You think we should take a consensus whether they.....they're going to have to come back correct?

- Allan Frishman: For what?
- Steven Burke: Don't we have to know what this project is going to be?
- Paula E Kay: The form of ownership.
- Allan Frishman: It's a duplex development. Whether it's a condo or a co-op, I don't think that has an impact on the variances.
- Jason Pantel: I was against before I brought that up.
- Allan Frishman: Now it's a matter of resolving the variances of the parking in front.
- Paula E Kay: Let's go through the variances requested because I'm not quite sure with the parking in the front. It's a variance with the requirement that it be a minimum lot area of 10 acres and you have 4.748.
- Jason Pantel: Isn't there anything about expanding a bungalow colony into a development?
- Steven Burke: So you have less than 5 acres and you should have 10.
- Paula E Kay: The front set back, instead of 175 it is...
- Jay Zeiger: To build a parking lot in the front. We need the variances to build the parking lot into the buffer.
- Paula E Kay: How far into the buffer?
- Steven Burke: The buildings are how far into the buffer?
- Jay Zeiger: The closest building, from the center of the building to the property line the building to the left is 137 feet, the second one is 102 feet.
- Paula E Kay: Is that in your application?
- Jay Zeiger: We don't need a variance for the existing building.
- Paula E Kay: It's existing but it's be converted, so you have to comply with the duplex law. You need a variance for these buildings to be in the set back. We're treating this like a duplex development now. All the duplex regulations have to be there.
- Steven Burke: So they have to come back.
- Jay Zeiger: So from the center of the road to the beginning of the parking lot, I have 70 feet. From the center of the road to the beginning of the parking lot, I have 70 feet.
- Steven Burke: So that's 100 feet.
- Allan Frishman: I have to stress the fact that that's where the 2 buildings were before.
- Paula E Kay: They were bungalows before.
- Jay Zeiger: What Allan is trying to say is with your definition of substantial, when you say is the variance substantial, if you do it on your mathematical formula that it's 75 versus 175, one can argue it is substantial. If you do it on a practicality stand point, that you already have 2 existing buildings that are 70 give or take to the road, those 2 buildings are coming down, so your area from the road to where this development is, instead of having 2 buildings where that area is, you're having a parking lot, you're having screening, when you add those 2 factors, the variance is not substantial, because you're taking something that already has 2 buildings there, those are coming down, you have

screening, a burm, all you're doing is putting in that area of parking lot.

- Paula E Kay: I don't necessarily disagree when you get to the substance of it, the issue is we don't have a clear demarcation of what the variances you requested until just now. What we're looking for is you need a variance from the 175 to the existing duplex and you need a variance for the parking area. 70. Those are not listed on your application.
- Allan Frishman: Excuse me. On number 2, it says the site is less than 10 acres than the duplex law requires.
- Jay Zeiger: Paula I put in the variance request for the parking lot only, I didn't think we needed a variance for those buildings because they're existing and somehow I have a recollection where there were existing buildings within the duplex, the one that jumps out of me....George which is the New Ponds where the recreation area was in the buffer?
- George Sarvis: On Riverside Drive?
- Jay Zeiger: I didn't think we needed a variance. That's why I didn't put it down. If you're interpretation is that we need a variation for the existing buildings, then our application is not complete.
- Paula E Kay: If we're going to call it something then we have to make sure that it complies with all the elements. The way I read it, even though the duplex is already existing, as a duplex development it no longer conforms, so now we need a setback variance for that.
- Allan Frishman: Just to add, in the request, in the application under number 2 it does say construct the parking lot within the front yard setback.
- Paula E Kay: Even to construct it within the front yard setback, you have to be specific. Where? What is the request? Is it 70 feet? The board needs to have that.
- Jay Zeiger: That request is shown on the map.
- Paula E Kay: In the legal notice it has to be specific, we have to information for the public so they can choose whether or not they will attend.
- Steven Burke: Can that front parking lot be moved anywhere else? According to Jay, 100 to 175, from 175 to 70 you said this board might consider substantial. If you do away with that parking lot, it gets ever greater. What is it from that to the building? If you did away with the parking lot..
- Allan Frishman: 137.
- Steven Burke: So now you are 38 which is much less substantial. I understand your point, you said in your opinion it's not that substantial. This board may feel...
- Jay Zeiger: If that was a condition to the variance, they might be able to move the parking lot.
- Steven Burke: When you come back to present it, you may want to present it that way to put less burden on this board.
- Allan Frishman: Less variances. Then we only need the 1.

- Jay Zeiger: Paula has already stated that we need a variance for the buildings.
- Discussion.
- Steven Burke: If they can move the parking lot further up somewhere else then they only need the 1 variance.
- Paula E Kay: And the buildings and the 10 acre.
- Steven Burke: But it will be a lot less, it will only be 38 as compared to 100.
- Jay Zeiger: Steve I am prepared to do several things. Number one I will not take a position contrary to Paula, whether I agree or not, if she feels we need more I am okay with that. I am prepared to sit down with this board to take suggestion, sit down with the Planning Board and staff to take suggestions. Before I agree to do that I need something from this board, I don't think I have that, where that effort is worthwhile. I don't care if I get a vote. I don't understand, this in my opinion is a lot nicer than what is there now. We have a property owner that is willing to invest in this property and make it much nicer. I don't feel like I have a warm and fuzzy reception here. Before we sit down and start kicking around with staff and spending more money, I'd like to get a consensus that if we moved the parking lot here and follow some other suggestions, we're prepared to pay our engineer and myself to do it, whatever the town staff is. Is that effort going to come?
- Steven Burke: Do you have anything you would like seen done to this? I know Jason, according to what I have heard from him, he is not in favor.
- Jason Pantel: You can add what you got your proposal rates for, as far as generally what you're building, you're building in 3.8 acres. It's less than half is what is required by the duplex law. I think you're trying to pack a whole lot of stuff into a small piece of property. There is no reason other than you owning it, and you want to make it better, I don't think this is what the town wants nor what I want.
- Jay Zeiger: I sat down with Steve by the way....it seems to be that the projects coming in front of you now are these bungalow colonies which are betwixt and between. They're nonconforming, they want to make it better, they need variances to make it better. I sat down with Steve and said can we talk to the town, what do you want seen done with these properties? Deteriorate? Your zoning doesn't meet what these properties are good for. You're saying we're packing in.
- Jason Pantel: Your doubling the size, you're taking a couple of small duplexes that are already existing, this one you haven't mentioned, I think it's a triplex?
- Jay Zeiger: It's being converted to a duplex.
- Jason Pantel: What you're telling me is if I bought 3 acres with 4 existing places on there, the only way I can to make it nice is by adding 4 more?
- Allan Frishman: We're not adding units. We have 14 families and we are keeping 14 families.
- Jason Pantel: You're doubling the size of every building. 1,600 square foot.

- Jay Zeiger: To make these things economical, in response to your argument, that we're putting 14 units on 4, almost 5 acres, if it was 15 acres they could have put 3 times as many as that. Yes, it's a smaller piece.
- Jason Pantel: But its' not.
- Paula E Kay: Jay you asked the board, now you know where we stand.
- Peter Frunzi: My response in regards to your comment, certainly as Steve suggested if the parking lot gets pushed back, it will help your case. I understand where Jay is coming from, not that you're making a threat, but alright we could leave it in drek or you can give the variance and make it better, that is sort of a slap in the face in some cases. Not from you. You move the parking lot back, you have a pretty good chance from my perspective. We're not voting here tonight.
- Neil Sapolsky: I think the parking lot definitely needs to be moved back. I think this is substantial, it's not even 50%. It's 38%. That's a huge variance. I know it's the same amount to people living there.
- Paula E Kay: We don't know how many people live there.
- Neil Sapolsky: I know it's going to look nicer.
- Jay Zeiger: Where is your 38%?
- Neil Sapolsky: Well 3.8 acres.
- Jay Zeiger: It's 4.74.
- Jason Pantel: That's proposed.
- Jay Zeiger: That's what the site will be with the variance.
- Neil Sapolsky: Okay 47%.
- Paula E Kay: So it is more than 50%.
- Paul Lucyk: I would like to see some of these buildings set back further.
- Allan Frishman: To do that we're tearing down the whole colony.
- Paul Lucyk: Fine. That will happen if you're putting in all new units. What was the story with the triplex?
- Allan Frishman: We were tearing down the building up front that had 4 units initially. You gave us permission to put the triplex in back. The driveway would run through the existing colony to get to the back for emergency vehicle access.
- Jay Zeiger: The site you're looking at was this without the parking lot and these 3 buildings instead of being there, there was going to be a triplex.
- Allan Frishman: The site plan has evolved to this point because initially we couldn't put the parking in the back because it wasn't part of the property. Everything has been evolving because of acquiring the property because of the buffer, we didn't know the town was going to say no. That's why I said this is a work in progress, we want to give you all the answers.
- Steven Burke: Anything else Paul?
- Paul Lucyk: Right now I can't give you a yes or no. I have to think.

- Steven Burke: You guys are good character judges. You know a couple people want the parking lot moved, I don't think that's a problem with you. I don't know if you can read what everybody is looking to do.
- Jason Pantel: Plus you have a huge property easement running right down the side of it that is basically cutting off, besides putting a road on it...
- Jay Zeiger: What?
- Jason Pantel: The easement that runs the whole distance of the property.
- Allan Frishman: The first 25 feet is the buffer, that we have to maintain anyway.
- Jay Zeiger: The second 25 feet is the road and easement.
- Jason Pantel: If you say all your buildings are 16,000 square feet, and 15% of the lot area is 30,000 square feet, you have another 13,000 square feet of property easement? Are you counting that as the road?
- Jay Zeiger: That is the road.
- Allan Frishman: There is an easement and a buffer.
- Jason Pantel: How many square feet is the parking lot?
- Allan Frishman: Square foot?
- Jason Pantel: Doesn't it have to be included in your site plan for impervious surface?
- Jay Zeiger: The impervious surface is 15% and we're way below that.
- Steven Burke: You know you have to come back. You know what some board members said that may help you. They just have to reapply, there is no extension right?
- Jay Zeiger: We'll withdraw tonight so there doesn't have to be a vote. That's the simplest way.
- Allan Frishman: Did you get the letter about the fire flows on this property?
- George Sarvis: Yeah.
- Allan Frishman: 2,200 gallons.
- George Sarvis: Yeah it was pretty good.
- Jason Pantel: How are you going to get any access, you have a 25 foot road, there is no turn around.
- Allan Frishman: I told you, there is going to be a turnaround built on top. This is a conceptual plan. The initial question you gave me was how do you get to the buildings? We are providing a road. All those details are being worked out with the Planning Board. All we need are the variances to move ahead.

4 . <u>SUN RAY COTTAGES, INC. – SBL# 60-1-4.2</u> – Requests an area variance to increase the height of a replacement bungalow unit #'s 25/26 within a bungalow colony. Zone: REC-1. Acres: 6.66. Location: 57 LaVista Dr., So. Fallsburg.

- Jay Zeiger and Lylie Hartman represented.
- Jay Zeiger: We were here 2 or 3 months ago. We got a variance to do a couple things.

December 17th application

ZONING BOARD OF APPEALS
TOWN OF FALLSBURG
5250 Main Street
S. FALLSBURG, NY 12779
(845) 434-8811

APPLICATION FOR A USE VARIANCE

APPLICANT NAME(S): The Sunny Day NY LLC PHONE: 917-627-1535

ADDRESS: 329 Hewes Street, 3rd Floor SBL: 39.-1-76 and 77

Brooklyn, New York 11211 ZONE: R-1

DIRECTIONS TO THE SITE: 5499 State Route 42, near Gamble Road

TO THE ZONING BOARD OF APPEALS:

1. STATEMENT OF OWNERSHIP AND INTEREST:

The undersigned applicant(s) residing at, having a principal place of business at: 329 Hewes Street, 3rd Floor, Brooklyn, New York 11211
is/are the Owner(s), Lessee(s), Other Owner

Section 2 MUST be filled out in its entirety for each section of the code for which you are requesting a variance in order to be placed on the Zoning Board of Appeals. Use additional sheets as needed.

2. REQUEST:

1. Town of Fallsburg Code Section: Duplex Development Law
2. Purpose Variance: Convert bungalow colony to duplex development - Lot size of less than 10 acres (site is 4.748 acres); 3 existing bungalows to remain within 175 feet setback.

Extent or scope of variance:

3. From 14 Bungalows
4. To 7 Duplex buildings (14 living units)

Attached hereto is a plan of the subject premises drawn to scale showing the following:

1. Name of record owner(s) of premises and of all adjoining properties.
2. Location of existing structures.
3. Location of proposed structures.
4. Location of all existing and proposed streets or highways.
5. Any other information pertinent to application.

3. REASONS FOR REQUEST:

1. The applicant cannot realize a reasonable return, provided the lack of return is substantial as demonstrated by competent financial evidence because:

   3 existing buildings already with 175 foot setback; existing buildings would need to be demolished and replaced at substantial cost.

2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood because:

   Bungalow buildings already exist; bungalows need to be renovated.

3. The requested use variance, if granted, will not alter the essential character of the neighborhood because:

   Bungalow colony already exists and several other bungalow colonies are located near this property.

4. The alleged hardship has not been self-created because:

   Zoning law making existing bungalow colony nonconforming was adopted after this bungalow colony already existed.

The board of appeals shall, in granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Date: 12/1/15

Signature of applicant(s)

STATE OF NEW YORK
COUNTY OF SULLIVAN

On the 1 day of December, 2015 before me came Shlomo Karpen, to me known to be the individual(s) described in and who executed the foregoing application for a variance and acknowledged that he/she/they executed the same.

Notary Public

JOEL T REICH
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01RE6169264
QUALIFIED IN KINGS COUNTY
MY COMMISSION EXPIRES JUN 25, 2019

ex No: ar

TOWN BOARD OF THE TOWN OF FALLSBURG
COUNTY OF SULLIVAN:STATE OF NEW YORK

IN THE MATTER OF THE APPLICATION OF THE SUNNY DAY NY LLC,
for relief rom Local Law #3-2016 of the laws of the
Town of Fallsburg (Moratorium)

Petitioner

- against -

TOWN OF FALLSBURG

Respondent,

VERIFIED PETITION

STOLOFF & SILVER, LLP
Attorneys for Petitioner
26 Hamilton Avenue, P.O. Box 1129
Monticello, New York 12701
(845) 794-4300

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the Courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated:_____ Signature:_____
Print Signer's Name:_____

Service of a copy of the within is hereby admitted.
Dated:

_____
Attorney(s) for

PLEASE TAKE NOTICE

☐ Notice of Entry — that the within is a (certified) true copy of a entered in the office of the Clerk of the within Court on

☐ Notice of Settlement — that an Order of which the within is a true copy will be presented for settlement to the Hon. one of the judges of the within named Court, at on 20__, at _____ __.M.

Dated:

STOLOFF & SILVER, LLP
Attorneys for:
26 Hamilton Avenue, P.O. Box 1129
Monticello, New York 12701
(845) 794-4300

TO:

Attorney(s) for