

APPLICATION TO BOARD OF APPEALS

Tel. No _____

Appeal No. 2014-075

Date 11.28.17

TO THE ZONING BOARD OF APPEALS, WEST SENECA, NEW YORK:

I (we) The Green Organization of 48 Birchwood Ct Williamsville NY 14221

, HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE DECISION OF THE BUILDING INSPECTOR ON AN APPLICATION FOR A BUILDING PERMIT NO. _____,

DATED _____, 20____, WHEREBY THE BUILDING INSPECTOR DID DENY TO

- A PERMIT FOR USE
- A PERMIT FOR OCCUPANCY
- A TEMPORARY PERMIT OR EXTENSION THEREOF
- A CERTIFICATE OF EXISTING USE
- A CERTIFICATE OF ZONING COMPLIANCE
- AREA PERMIT

1. Applicant is the
- PROPERTY OWNER
 - CONTRACTOR FOR THE WORK CONCERNED HEREIN
 - PROSPECTIVE TENANT
 - OTHER (Describe) ENGINEER

2. LOCATION OF THE PROPERTY 216 Orchard Park Rd.

3. State in general the exact nature of the permission required, BULK AREA VARIANCE

4. PREVIOUS APPEAL. No previous appeal has been made with respect to this decision of the Building Inspector or with respect to this property, except the appeal made in Appeal No. NA, dated _____, 20____.

5. REASON FOR APPEAL.

A. A Variance to the Zoning Ordinance is requested because strict application of the ordinance would produce undue hardship, or the hardship created is unique and is not shared by all properties alike in the immediate vicinity of this property and in this use district, or the variance would observe the spirit of the ordinance and would not change the character of the district because: _____

SEE ENCLOSED

B. Interpretation of the Zoning Ordinance is requested because: _____

C. A Special or Temporary Permit or an Extension thereof Under the Zoning Ordinance is requested pursuant to Article _____, Section _____, Subsection _____, Paragraph _____ of the Zoning Ordinance, because: _____

Matthew Green
Signature

TO BE COMPLETED BY THE BUILDING INSPECTOR

1. Provision(s) of the Zoning Ordinance Appealed, including article, section, subsection or paragraph of the Zoning Ordinance
120-39 - BULK AREA = 8,000 SF FOR 1ST DWELLING UNIT + 5,000 SF FOR PERMIT
- START 680 SF IN LOT SIZE

2. Zoning Classification of the property concerned in this appeal C-2

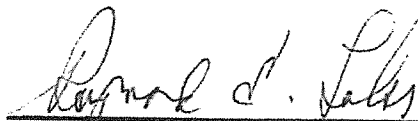
3. Type of Appeal:
- Variance to the Zoning Ordinance.
 - Interpretation of the Zoning Ordinance or Zoning Map
 - Special or Temporary Permit or an extension thereof under the Zoning Ordinance.

[Handwritten Signature]

4. A statement of any other facts or data which should be considered in this appeal.
APPLICANT ~~REQUEST~~ GOING THROUGH PLANNING BOARD PROCESS

AUTHORIZATION

REL Properties, LLC, record property owner of 216 Orchard Park Road, Town of West Seneca, New York (the "Real Property"), hereby authorizes The Green Organization, Inc to file an application, along with any other necessary supporting documentation, with the Town of West Seneca in connection with the approvals sought for the Real Property. REL Properties, LLC, also understands that the town board or planning board may impose special conditionals to the approval, but that REL Properties, LLC has no obligation with respect to those conditions.



REL Properties, LLC

Dated: 10/25/17

216 ORCHARD PARK ROAD
MULTI FAMILY PROJECT
PROJECT DESCRIPTION

The proposed project consists of the construction of a 3-story apartment building along with a 10-unit townhome building and a third building with 10 garage units. The property is zoned C-2 and is 3.91 acres in size. A density calculation was prepared for the allowable number of units on the site based upon the formula found in the zoning ordinance which calls for a minimum of 8,000 square feet of land area for the first dwelling unit and 5,000 square feet for each additional dwelling unit (DU) as follows:

$$\begin{array}{r} 3.91 \text{ acres} \times 43,560 \text{ sf/acre} = 170,320 \text{ sf} \\ \text{First Unit} \quad \quad \quad - \underline{8,000 \text{ sf}} \\ \quad \quad \quad \quad \quad \quad \quad 162,320 \text{ sf} \end{array}$$

$$\begin{array}{l} 162,320 \text{ sf} \div 5,000 \text{ sf} = 32.46 \text{ DU} \\ 1 \text{ DU @ } 8,000 \text{ sf} + 32.46 \text{ DU @ } 5,000 \text{ sf} = \\ \quad \quad \quad 33.46 \text{ or } 33 \text{ DU rounding down} \end{array}$$

Following calculation of the allowable dwelling units as shown above, the Development Team created a plan for a building with 10 townhomes and a plan for a 3-story building with 23 units. A site plan was developed for the buildings which we feel provides a very good layout for an attractive multi-family development.

Unfortunately, it was not until the formal submittal was made that the Development Team learned about the longstanding Town of West Seneca policy to apply the density calculation to each residential building on site and not on the project site as a whole. This calculation is as shown below:

$$\begin{array}{r} 3.91 \text{ acres} \times 43,560 \text{ sf/acre} = 170,320 \text{ sf} \\ 1^{\text{st}} \text{ unit in Building 1} \quad \quad - \underline{8,000 \text{ sf}} \\ 1^{\text{st}} \text{ unit in Building 2} \quad \quad - \underline{8,000 \text{ sf}} \\ \quad \quad \quad \quad \quad \quad \quad 154,320 \text{ sf} \end{array}$$

$$\begin{array}{l} 154,320 \text{ sf} \div 5,000 \text{ sf} = 30.86 \text{ DU} \\ 1 \text{ DU @ } 8,000 \text{ sf} + 1 \text{ DU @ } 8,000 \text{ sf} + 30.86 \text{ DU @ } 5,000 \text{ sf} = \\ \quad \quad \quad 32.86 \text{ or } 32 \text{ DU if rounding down} \end{array}$$

In other terms @ 33 DU in two buildings, the town's policy on density calculations would require:

$$8,000 \text{ sf} + 8,000 \text{ sf} + 31 \text{ DU} \times 5,000 \text{ sf/DU} = 171,000 \text{ sf}$$

The property is 170,320 sf in land area resulting in a deficiency of:

$$\begin{array}{r} 171,000 \\ -170,320 \\ \hline 680 \text{ sf of land area} \end{array}$$

We respectfully request an area variance to allow a land area of 170,320 sf vs. 171,000 sf for this project.

**216 ORCHARD PARK ROAD
AREA VARIANCE BALANCING CONSIDERATIONS**

In accordance with New York State Town Law §267-b, in order for an area variance to be granted, the Zoning Board of Appeals must find that the benefits of the requested variance to the applicant outweighs the detriment it will cause to the health, safety and welfare of the neighborhood and community by such variance. In making such a determination the board shall consider the following five factors in relation to the detriment to the health, safety and welfare of the neighborhood and community.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?
The neighborhood and surrounding community consists of an urban setting with a mixture of residential properties with commercial development along Orchard Park Road in the immediate area. Commercial development in the area along Orchard Park Road and Slade Avenue consists of hotels, schools and grocery stores. A multifamily development with 33 units would not only enhance the surrounding community but provide a more diverse housing type along this section of Orchard Park Road in compliance with the town's comprehensive plan. This project would not change the character of the neighborhood as it currently consists of mixed-use development in an urban setting.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?
Another option available to the owner to comply with Town Code would be to purchase approximately 680 square feet of property from an adjacent neighbor. The property to the south (Big Lots Commercial Store) and north (Local Iron Workers Hall) are not viable options as these lots have improvements (asphalt pavement) located immediately adjacent to the respective property lines. The only option for available property to purchase is from the neighbors to the west. However, it is uncertain whether the adjacent property owners would be willing to sell a portion of their property. The uncertainty of a neighbor willing to sell his/her property as well as the relatively difficult, time-consuming and costly process of a real property purchase for such a small amount of land makes this option much less desirable. Based on the options available for code compliance, the area variance is the most cost effective, time effective and viable option.
3. Whether the requested area variance is substantial?
The area variance is not substantial. The applicant would need approximately 0.015 acres (680 square feet) of property for the project to be in compliance with Town Code.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
There would be no known adverse physical or environmental effects of granting this area variance. Again, this project would incorporate seamlessly into the surrounding neighborhood mixed use, high density use, whether at 33 units or 32.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance?
The project was developed in the concept planning stages, in conjunction with the architect, for two buildings consisting of 10-unit and 23-unit buildings, which are standard building

designs of the architect. These buildings were selected for their upscale visual appearance as well as the number of units, which was calculated from the typical bulk density calculation. However, the applicant was informed that the bulk density calculation should be calculated for each building and not for the area of the property. The minor self-created difficulty was a result of a standard building design based on a bulk density calculation for the property area as a whole and did not take into account for each building as is the practice in West Seneca.

By review of the foregoing, it is clear that the benefits to the owner in the relief sought clearly outweigh any detriments to the surrounding neighborhood and community, should there be any that may be identified.