



COURTROOM
1 MUNICIPAL PLAZA
BEACON, NY 12508

**November 21, 2023
7:00 PM
Zoning Board of Appeals Agenda**

The Zoning Board of Appeals will meet on Tuesday, November 21, 2023, at 7:00 PM, in the Municipal Center courtroom, located at One Municipal Plaza, Beacon, New York.

Regular Meeting

1. Approval of the October 17, 2023, minutes
2. Review and hold a public hearing on application submitted by Elizabeth Hoffman, 12 Coyne Hill Road, Tax Grid No. 30-5954-16-946464-00, in the R1-40 Zoning District, to allow a painting studio on the 2nd floor of the detached garage, which requires relief from the following: Â Section 223-14. Landscaping, lighting, and miscellaneous regulations. 1. Accessory buildings on residential lots. (3) Detached garages and other accessory buildings. Detached garages and other accessory buildings are permitted, provided that they comply with the accompanying Schedules of Regulations and meet the following additional requirements: (e) Space provided above the grade story shall be utilized for storage only.
3. **ADJOURNED AT THE REQUEST OF THE APPLICANT, TO THE DECEMBER 19th, MEETING*** Â Review and hold a continued public hearing on application submitted by 925 Wolcott LLC, 925 Wolcott Avenue, Tax Grid No. 30-5954-44-922633-00, R1-10 Zoning District, for the following: Â 1. Consideration of an appeal of the Building Inspectorâ€™s October 13, 2023 determination regarding the type of variance required to permit the re-establishment of a nonconforming multi-family or SRO use upon premises located at 925 Wolcott Avenue, pursuant to Section 223-55.B of the City Code; or 2. In the alternative, a. An area variance from Sections 223-10.C and 223-10.D to permit reconstruction of a structure previously containing a non-conforming use; Â or, in the second alternative, for Â b. A use variance from Section 223-17.C to permit a multi-family or single-room-occupancy (SRO) building in the R1-10 Zoning District. Â Any such variances are to be considered subsequently, and pursuant to Section 223-55.C of the City Code.

**City of Beacon Zoning Board of Appeals Agenda
11/21/2023**

Title:

Approval of the October 17, 2023, minutes

ATTACHMENTS

City of Beacon Zoning Board of Appeals Agenda
11/21/2023

Title:

Review and hold a public hearing on application submitted by Elizabeth Hoffman, **12 Coyne Hill Road**, Tax Grid No. 30-5954-16-946464-00, in the R1-40 Zoning District, to allow a painting studio on the 2nd floor of the detached garage, which requires relief from the following:

Section 223-14. Landscaping, lighting, and miscellaneous regulations.

1. Accessory buildings on residential lots.

(3) Detached garages and other accessory buildings. Detached garages and other accessory buildings are permitted, provided that they comply with the accompanying Schedules of Regulations and meet the following additional requirements: (e) Space provided above the grade story shall be utilized for storage only.

ATTACHMENTS

[12 Coyne Hill Rd ZBA app.pdf](#)

[12 Coyne Hill Rd denial ltr 10.31.23.pdf](#)

[12 Coyne Hill ZBA 11.21.23 public comment Davis.pdf](#)

ZONING BOARD OF APPEALS
City of Beacon, New York

RECEIVED
10/31/23 *wp*

APPLICATION FOR APPEAL

OWNER: Elizabeth Hoffman

ADDRESS: 12 Coyne Hill Road
Beacon, NY 12508

TELEPHONE: (917) 750-4449

E-MAIL: Elizabeth.Hoffman@gmail.com

APPLICANT (if not owner): _____

ADDRESS: _____

TELEPHONE: _____

E-MAIL: _____

REPRESENTED BY: _____

ADDRESS: _____

TELEPHONE: _____

E-MAIL: _____

PROPERTY LOCATION: 12 Coyne Hill Road

ZONING DISTRICT: R1-40

TAX MAP DESIGNATION: SECTION 5954

BLOCK 16 LOT 948464

Section of Zoning Code appealed from or Interpretation desired:

Section 223-14(E)(3)(e) of the Charter and Code of the City of Beacon states as follows, "Detached garages and other accessory buildings. Detached garages and other accessory buildings are permitted, provided that they comply with the accompanying Schedules of Regulations[2] and meet the following additional requirements: (e) Space provided above the grade story shall be utilized for storage only."

Reason supporting request:

The homeowner requests a variance in order to use the space above the detached garage as a painting studio. The homeowner will be the sole user. It will require insulation, plumbing to a half bathroom, electric, and HVAC. The exterior of the detached garage will not require any alterations.

Supporting documents submitted herewith: Site Plan, Survey, etc. as required:

Survey, building plans, photos

Date: 10/31/2023

Elizabeth Hoffman
Owner's Signature

Fee Schedule

AREA VARIANCE	\$ 250
USE VARIANCE	\$ 500
INTERPRETATION:	\$ 250
ESCROW FEE:	\$1000
I & I INSPECTION:	\$50

Elizabeth Hoffman
Applicant's Signature

APPLICATION PROCESSING RESTRICTION LAW

Affidavit of Property Owner

Property Owner: Elizabeth Hoffman

If owned by a corporation, partnership or organization, please list names of persons holding over 5% interest.

List all properties in the City of Beacon that you hold a 5% interest in:

Applicant Address: 12 Coyne Hill Road

Project Address: 12 Coyne Hill Road

Project Tax Grid # 130200-5954-16-946464-0000

Type of Application Use Variance

Please note that the property owner is the applicant. "Applicant" is defined as any individual who owns at least five percent (5%) interest in a corporation or partnership or other business.

I, Elizabeth Hoffman, the undersigned owner of the above referenced property, hereby affirm that I have reviewed my records and verify that the following information is true.

1. No violations are pending for ANY parcel owned by me situated within the City of Beacon YES
2. Violations are pending on a parcel or parcels owned by me situated within the City of Beacon NO
3. ALL tax payments due to the City of Beacon are current YES
4. Tax delinquencies exist on a parcel or parcels owned by me within the City of Beacon NO
5. Special Assessments are outstanding on a parcel or parcels owned by me in the City of Beacon NO
6. ALL Special Assessments due to the City of Beacon on any parcel owned by me are current YES

Elizabeth Hoffman

Signature of Owner

Title if owner is corporation

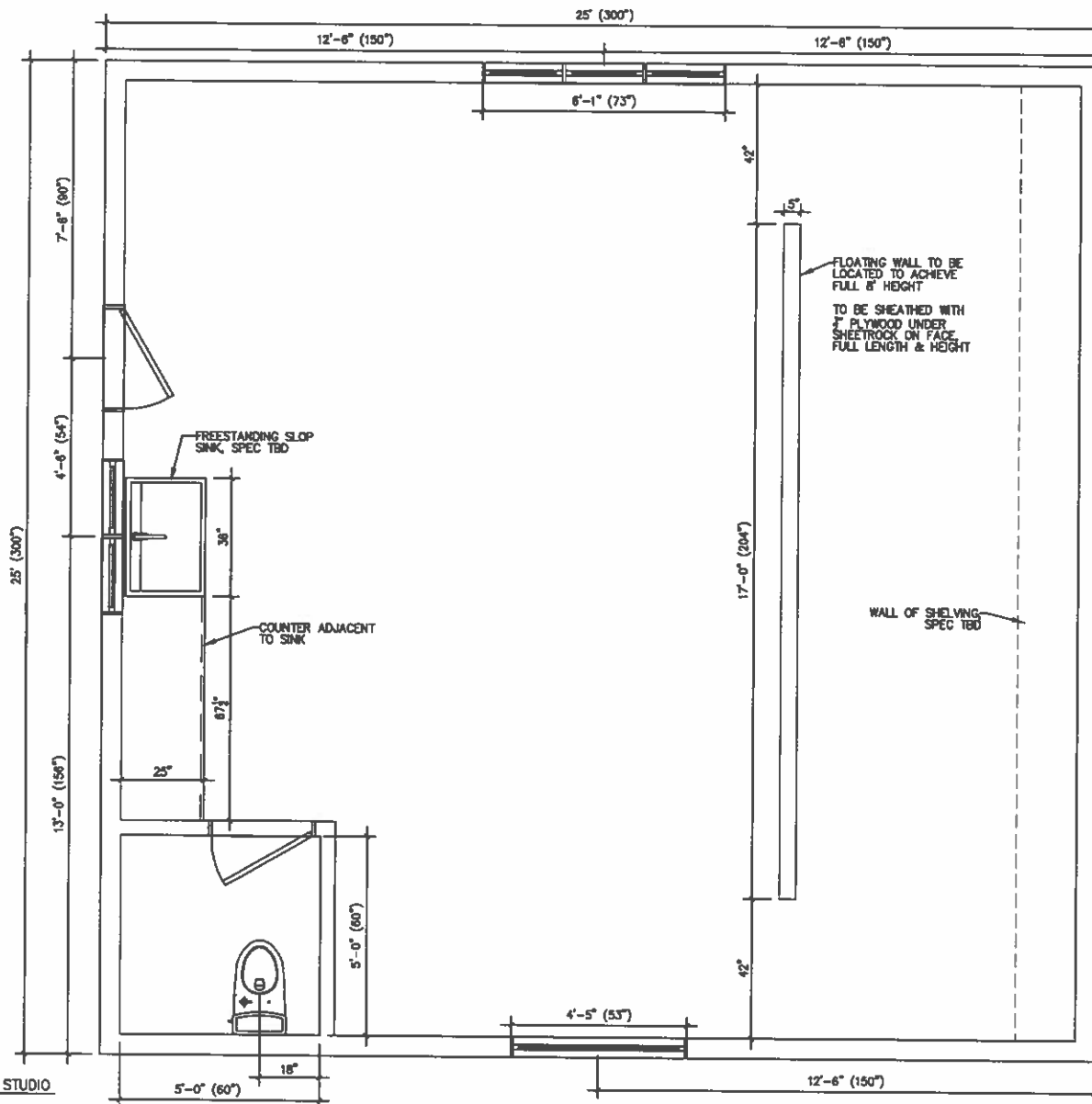
Office Use Only:

Applicant has violations pending for ANY parcel owned within the City of Beacon (Building Dept.)

ALL taxes are current for properties in the City of Beacon are current (Tax Dept.)

ALL Special Assessments, i.e. water, sewer, fines, etc. are current (Water Billing)

NO	YES	Initial
<u>X</u>	<u>—</u>	<u>MP</u>
<u>—</u>	<u>X</u>	<u>KM</u>
<u>—</u>	<u>X</u>	<u>KM</u>



BUILDER TO SUPPLY
2" X 10" BLOCKING
THROUGHOUT SPACE
ON NON-DORMERED
WALLS AT AFF

1 PLAN - 2ND FL ART STUDIO
1-0 3/8" = 1'-0"

ELIZABETH STRIANESE
INTERIORS LLC

ELIZABETH
STRIANESE INTERIORS LLC
750 WHEELER HILL ROAD
HARRINGTON HILLS, NY
11555
(914) 661-7857

HOFFMAN - GARAGE ART STUDIO
16 COYNE HILL ROAD BEACON, NY 12508

NOT FOR
CONSTRUCTION

Date: 9.19.23
Issue: SKETCH
Scale: AS NOTED
Rev:

2ND FLOOR
GARAGE
ART STUDIO

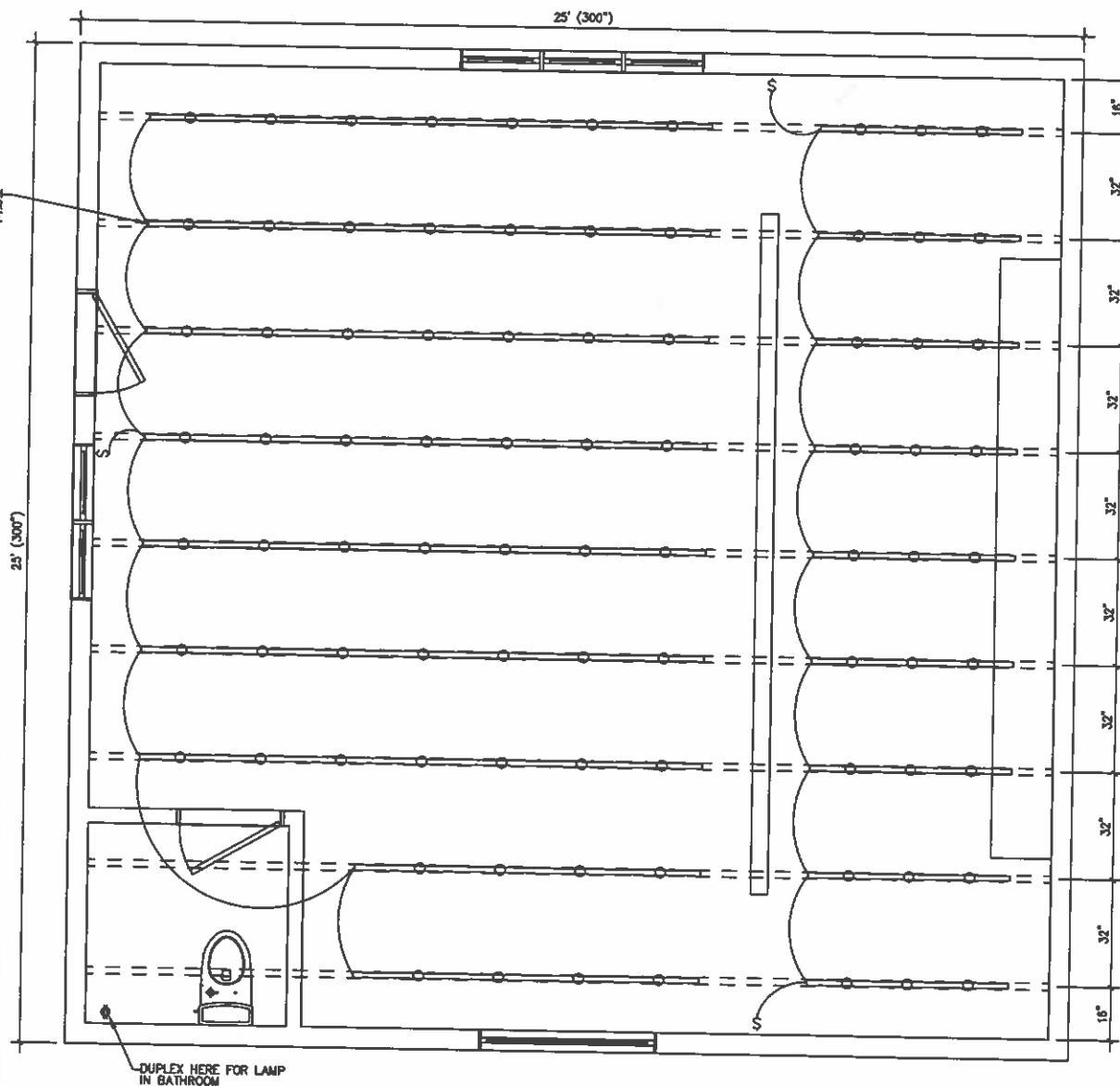
1-0

All ideas, designs, and plans indicated and represented by this drawing are owned by and the property of Elizabeth Strianese Interiors LLC, and were created, involved, and developed by us on and in connection with the specified project. None of such ideas, designs, arrangements, or plans shall be used by or disclosed to any persons, firm, or corporation for any purpose without the written consent of Elizabeth Strianese Interiors LLC.

BUILDER TO INSTALL
DUPLEXES PER CODE
THROUGHOUT SPACE

PLACE FULL LENGTH
TRACK LIGHTING PER
COLLAR TIE

1 RCP - 2ND FL. ART STUDIO
MEP-0
1/8" = 1'-0"



ELIZABETH STRIANESE
INTERIORS LLC

ELIZABETH
STRIANESE INTERIORS LLC
750 WHEELER HILL ROAD
HARTFORDVILLE NY
12080
860.886.7877

HOFFMAN - GARAGE ART STUDIO
16 COYNE HILL ROAD BEACON, NY 12508

NOT FOR
CONSTRUCTION

Date: 9.18.25
Issue: SKETCH
Scale: AS NOTED
Rev:

2ND FLOOR
GARAGE
ART STUDIO

MEP-0

All ideas, designs, and plans indicated and represented by this drawing are owned by and the property of Elizabeth Strianese Interiors LLC, and were created, involved, and developed by us on and in connection with the specified project. None of such ideas, designs, arrangements, or plans shall be used by or disclosed to any persons, firm, or corporation for any purpose without the written consent of Elizabeth Strianese Interiors LLC.

FOR OFFICE USE ONLY

Application #

CITY OF BEACON

1 Municipal Plaza, Beacon, NY

Telephone (845) 838-5000 • <http://beaconny.gov/>**INDIVIDUAL DISCLOSURE FORM**

(This form must accompany every land use application and every application for a building permit or certificate of occupancy submitted by any person(s))

Disclosure of the names and addresses of all persons) filing a land-use application with the City is required pursuant to Section 223-62 of the City Code of the City of Beacon. Applicants shall submit supplemental sheets for any additional information that does not fit within the below sections, identifying the Section being supplemented.

SECTION A

Name of Applicant: Elizabeth Hoffman
 Address of Applicant: 12 Coyne Hill Road
 Telephone Contact Information: (917) 7504449

SECTION B. List all owners of record of the subject property or any part thereof.

Name	Residence or Business Address	Telephone Number	Date and Manner title was acquired	Date and place where the deed or document of conveyance was recorded or filed.
Elizabeth Hoffman	12 Coyne Hill Rd Beacon, NY 12508	(917) 7504449	10/26/23 Purchase	

SECTION B. Is any owner of record an officer, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to a City Council member, planning board member, zoning board of appeals member or employee of the City of Beacon?

☐

YES

☒

NO

If yes, list every Board, Department, Office, agency or other position with the City of Beacon with which a party has a position, unpaid or paid, or relationship and identify the agency, title, and date of hire.

Agency	Title	Date of Hire, Date Elected, or Date Appointed	Position or Nature of Relationship

SECTION C. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modification and amendments thereto, shall be submitted with the application.

SECTION D. Have the present owners entered into a contract for the sale of all or any part of the subject property and, if in the affirmative, please provide a duplicate original or photocopy of the fully and complete contract of sale, including all riders, modifications and amendments thereto.

☒

YES

☐

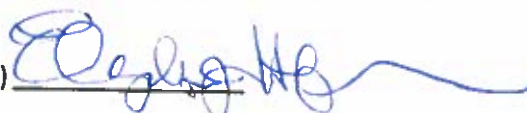
NO

I, Elizabeth Hoffman being first duly sworn, according to law, deposes and says that the statements made herein are true, accurate, and complete.

(Print)

Elizabeth Hoffman

(Signature)









CITY OF BEACON

New York

Building Department

Bruce Flower
Building Inspector

845-838-5020
Email: bflower@beaconny.gov

October 31, 2023

Elizabeth Hoffman
12 Coyne Hill Road
Beacon, NY 12508

Dear Ms. Hoffman,

I have received your application build a painting studio in an existing accessory structure on the second floor. A painting studio is an allowed accessory use in the R1-40 Zoning District but is not allowed on any floor above the ground floor in an accessory building. Your proposal shows the studio is to build on the 2nd floor of the detached garage. The application is being denied since accessory structures are only allowed to have storage above the grade floor.

Chapter 223. Zoning

Article III. General Regulations

§ 223-14. Landscaping, lighting, and miscellaneous regulations.

E. Accessory buildings on residential lots.

(3) Detached garages and other accessory buildings. Detached garages and other accessory buildings are permitted, provided that they comply with the accompanying Schedules of Regulations and meet the following additional requirements:

(e) Space provided above the grade story shall be utilized for storage only.

You have the right to appeal this decision with the Zoning Board of Appeals. If you wish to appeal this decision, please contact the Zoning Board of Appeals Secretary regarding the application and instructions.

Sincerely,

Bruce Flower
Building Inspector

City of Beacon, NY
Tuesday, October 31, 2023

Chapter 223. Zoning

Article III. General Regulations

§ 223-14. Landscaping, lighting, and miscellaneous regulations.

E. Accessory buildings on residential lots.

[Added 1-19-2016 by L.L. No. 2-2016]

- (1) General. No detached accessory building, including a garage, utility shed, storage shed or other outbuilding, but not including construction sheds, is permitted, until such time as the principal building has been substantially completed in conformance with all applicable provisions of this chapter. All accessory buildings shall comply with the dimensional and bulk requirements set forth on the accompanying Schedules of Regulations constituting § 223-17C and E of this chapter unless specifically provided otherwise herein. For the purpose of this section, "residential lots" shall mean any lot containing a permitted residential use.

- (2) Sheds. A shed may be erected, provided that it is used for storage and utility purposes that are customary and incidental to the existing residence. Notwithstanding any requirement in the Schedules of Regulations^[1] to the contrary, the shed shall be no larger than 144 square feet in floor area and a maximum of 10 feet in height at its highest point.

[Amended 6-15-2020 by L.L. No. 7-2020]

[1] *Editor's Note: The Schedules of Regulations are included as attachments to this chapter.*

- (3) Detached garages and other accessory buildings. Detached garages and other accessory buildings are permitted, provided that they comply with the accompanying Schedules of Regulations^[2] and meet the following additional requirements:

- (a) The building shall be located behind the front line of the primary building.
- (b) The building shall be permanent, except that fabric-covered frames or structures are permitted, provided that the structure and the fabric are appropriately maintained in good condition.
- (c) The building shall not be equipped with showers or bathing fixtures and equipment.
- (d) In no case shall the total square footage of all accessory buildings exceed the limits established in the Schedule of Regulations.

- (e) Space provided above the grade story shall be utilized for storage only.

[2] *Editor's Note: The Schedules of Regulations are included as attachments to this chapter.*

- (4) This subsection shall not apply to accessory apartments.

[Added 9-19-2022 by L.L. No. 8-2022]

From: [Andrea](#)
To: [Mercedes Perez](#)
Subject: 12 Coyne Hill Road
Date: Monday, November 20, 2023 10:41:04 PM

Hi Mercedes. We hope that all is well.

Our names are Andrea & Terry Davis and we both reside at 20 Coyne Hill Road.

We are writing on behalf of the application submitted to allow a painting studio on the second floor in an accessory building located at 12 Coyne Hill Road.

We want to ensure that if this variance is approved that it will be for personal use only and NOT for a commercial / business usage, where paint classes are held for others to attend.

How can we ensure that this is the intent of the variance (for personal use) for one and secondly how can we check in, in the future, to be sure that it doesn't change (to a business) from within?

We are concerned that if this space is used as a business then it will bring with it traffic and congestion, not only in our now quiet, beloved, low key neighborhood but especially within our private road/driveway. If that is the case, then we do not approve the variance.

Thank you for listening and hearing our viewpoint. It's certainly appreciated.

Andrea & Terry Davis

Sent from my iPhone

City of Beacon Zoning Board of Appeals Agenda
11/21/2023

Title:

****ADJOURNED AT THE REQUEST OF THE APPLICANT, TO THE DECEMBER 19th, MEETING****

Review and hold a continued public hearing on application submitted by **925 Wolcott LLC**, 925 Wolcott Avenue, Tax Grid No. 30-5954-44-922633-00, R1-10 Zoning District, for the following:

1. Consideration of an appeal of the Building Inspector's October 13, 2023 determination regarding the type of variance required to permit the re-establishment of a nonconforming multi-family or SRO use upon premises located at 925 Wolcott Avenue, pursuant to Section 223-55.B of the City Code; or
2. In the alternative,
 - a. An area variance from Sections 223-10.C and 223-10.D to permit reconstruction of a structure previously containing a non-conforming use;

or, in the second alternative, for

- b. A use variance from Section 223-17.C to permit a multi-family or single-room-occupancy (SRO) building in the R1-10 Zoning District.

Any such variances are to be considered subsequently, and pursuant to Section 223-55.C of the City Code.

ATTACHMENTS

[925 Wolcott ZBA 11.21.23 Supplemental Submission with Exhibits A-D Attached\(5862468.1\).pdf](#)

[925 Wolcott ZBA 11.21.23 public comment Woodward.pdf](#)

[925 Wolcott ZBA 11.21.23 public comment Giunta.pdf](#)

[925 Wolcott ZBA 11.21.23 public comment Nenno.pdf](#)

[925 Wolcott ZBA 11.21.23 public comment Ornella.pdf](#)

[925 Wolcott ZBA 11.21.23 public comment Rutledge.pdf](#)

925 Wolcott ZBA 11.21.23 public comment Stroyberg.pdf

925 Wolcott ZBA 11.21.23 public comment Quinones.pdf

925 Wolcott ZBA 11.21.23 public comment Eriksmoen.pdf

925 Wolcott ZBA 11.21.23 public comment OBrien.pdf

925 Wolcott ZBA 11.21.23 public comment Mustakas.pdf

925 Wolcott ZBA 11.21.23 public comment Schofield.pdf

925 Wolcott ZBA 11.21.23 public comment Martin.pdf

925 Wolcott ZBA 11.21.23 public comment Woodward (2).pdf

925 Wolcott ZBA 11.21.23 public comment Bank.pdf

925 Wolcott ZBA 11.21.23 public comment Eve.pdf

925 Wolcott - Request for Adjournment to December 19, 2023 ZBA Meeting Agenda with Exhibit A(5882151.1).pdf

925 Wolcott ZBA 11.21.23 public comment Woodward CORRECTION.pdf

925 Wolcott ZBA 11.21.23 public comment Safiullin.pdf



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White Plains, New York 10601
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F 914 761 5372
cuddyfeder.com

Taylor M. Palmer, Esq.
tpalmer@cuddyfeder.com

October 31, 2023

**VIA HAND DELIVERY
AND EMAIL**

Chairman Jordan Haug
and Members of the Zoning Board of Appeals
City of Beacon
1 Municipal Plaza
Beacon, New York 12508

Re: 925 Wolcott LLC
Supplemental Submission Seeking an Additional Interpretation Regarding the Third
Building Inspector Determination, Dated October 13, 2023
Premises: 925 Wolcott Avenue, Beacon, New York (Tax Parcel ID: 5954-44-922633)

Dear Chairman Haug and the Members of the Zoning Board of Appeals:

On behalf of 925 Wolcott LLC (the "Applicant"), the owner of the above-referenced Premises, we respectfully submit this letter in furtherance of the Applicant's pending request to this Board seeking an Area Variance, and in the alternative, a Use Variance, to permit the re-establishment of a single-room occupancy ("SRO") multi-family use at the above-referenced Premises. Specifically, this letter respectfully appeals the Building Inspector's newest Determination dated October 13, 2023 (the "Third Determination," found at **Exhibit A**), which the Applicant received ten (10) months after the Original Determination was rendered by the Building Inspector, and which Original Determination the Applicant is presently nearly seven (7) months into the process of appealing.¹ Accordingly, the Applicant now also appeals the Building Inspector's Third Determination that the variance needed to reconstruct the building that was destroyed by an arson fire is a Use Variance. As is more fully detailed herein and is included in the Applicant's prior submissions to this Board – the relief sought is for an Area Variance.

Moreover, for the first time in this matter, in its Third Determination, the Building Inspector has now determined that Area Variances are also required the for minimum lot size per unit; building height; and for the number of units. Herein, the Applicant appeals this Third Determination, noting that Area Variances are not required, and in the alternative, the Applicant requests the issuance of these Area Variances, as the variance relief requested will not harm the public health, safety, and welfare of the neighborhood or community.

¹ Note: As this Board is aware, the Building Inspector issued the Original Determination on January 19, 2023, followed by the Second Determination dated March 20, 2023, which included two (2) additional Determinations that this Board overturned.

FROM A PLAIN READING OF THE ZONING CODE, THE VARIANCE REQUIRED FROM ZONING CODE SECTION 223-10(D) TO RECONSTRUCT THE LONG-EXISTING NON-CONFORMING SINGLE-ROOM OCCUPANCY USE IS FOR AN AREA VARIANCE, NOT A USE VARIANCE.

As is more fully detailed in the Applicant's previous submissions, Section 223-10(D) of the Zoning Code, which is entitled "restoration of damaged buildings" (rather than being titled, for example, "restoration or reconstruction of extinguished uses" or "nonconforming use of structures", which nonconforming use regulations can already be found in its own section of the Zoning Code at Section 223-10(C)), provides that:

*"[i]f any nonconforming building shall be destroyed by any means to an extent of more than 50%, no repairs or reconstructions shall be made **unless every portion of such building** [i.e. the structure, not the use] is made to conform to all the regulations of this chapter..." (emphasis added).*

A variance from this provision is an Area Variance. Pursuant to case law in New York, the variance request is one related to the reconstruction "volume" permitted – a clear dimensional requirement, which is the subject of an Area Variance. See Bobandal Realities, Inc. v. Worthington, 21 A.D.2d 784 (2d Dep't 1964) (characterizing the request for a variance to permit the reconstruction of a building which was more than 50% destroyed as an Area Variance from the limit of "50% of 'volume'"). In fact, the "Re:" subject line of the new Third Determination refers to this matter as "Relief Sought from 50% Threshold/City Code Section 223-10.D". Furthermore, in the Third Determination the Building Inspector goes on to state that:

*"The 50% threshold stated in City Code § 223-10.D refers to the **volume** of a nonconforming building and is utilized as a parameter for purposes of determining whether a non-conformity may continue following damage or casualty" (emphasis added).*

While the Building Inspector's Third Interpretation attempts to explain that this 50% of volume is somehow not a "dimensional standard," New York courts have previously noted that in requesting relief for limitations on the reconstruction of a nonconforming use, one is to seek an Area Variance. See Warner v. Town of Kent Zoning Board of Appeals, 144 A.D.3d 814 (2d Dep't 2016) (holding that an Applicant should have applied for an Area Variance from supplemental regulations limiting the reconstruction for a non-conforming use destroyed over 75% of its bulk or square footage to a one-year period).

Characterizing the relief from Section 223-10(D) as one for an Area Variance also comports with a plain reading of New York General City Law Section 81-B. As is cited by the Building Inspector in the Third Determination, New York General City Law Section 81-B defines an "Area Variance" as:

"the authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations."

The 50% dimensional threshold cited by the Building Inspector is indeed a "dimensional or physical requirement" – and in this matter, the Building Department is wrongly relying on this provision to restrict the Applicant from reconstructing the damaged building, which was totally destroyed by an

arson fire (or at least, it was destroyed close to 100%, as the foundation is still on the Premises). But for this 50% of volume dimensional limitation, the Applicant could proceed with the already issued Building Permit without needing Area Variance relief. At the same, as this Board is aware, within that same provision, Zoning Code Section 223-10(D) also allows buildings that are destroyed *less than 50%* to merely be restored without any relief from the ZBA, so it's clear that the use itself should not be at issue in this Section of the Zoning Code that concerns the building, but rather as cited by the Building Inspector in its Third Determination, this 50% of volume limitation represents an area variable "mathematic measure."²

Furthermore, while arguing that this 50% of volume "cap" is just a measure of eligibility, the Building Inspector does not cite a single case or legal statute (because he cannot) for its newest Third Determination. The Building Inspector also does not contradict the case law proffered by the Applicant, which was requested by the Board's counsel and were so provided. Instead, the Building Inspector's conclusory Third Determination is merely an attempt to find another way around the plain reading of the Zoning Code provision at issue in this matter (i.e., Section 223-10(D), which concerns restoration of damaged buildings) in order to "determine" or administratively zone-out a long-standing nonconforming use on the Premises. This Third Determination, much like the determinations issued before it, wrongly conflate two (2) completely separate Sections of the Zoning Code – one that deals with Area Variance relief related to buildings and dimensional conformities (223-10(D)); and one that deals with when a use ceases after non-continuous use for more than one year (223-10(C)).

Indeed, if the Applicant was seeking a Use Variance in the first instance, it would merely appeal Section 223-17(C) – but that relief is only sought in the *alternative* herein. In the instant matter, an Area Variance is the proper relief from Zoning Code Section 223-10(D), and the arguments and facts presented by the Applicant have brought the plain reading of the Zoning Code to the forefront.³ Thus, any attempts to cloud that plain reading are just that – mere efforts to change the focus from the facts in this matter and the language plainly written in the current Zoning Code. But, as is detailed herein, facts are stubborn things – and the Third Determination merely underscores the core principal underlying the case at hand: this matter involved an arson fire caused by another, and the use hasn't ceased for a continuous period of more than one year – therefore, the proper relief of this dimensional 50% of volume requirement is indeed Area Variance relief.

² Note: Zoning Code Section 223-10(C)(4) is the provision of the Code that regulates when a use ceases – i.e., for non-continuous use for one year, not because of an overnight fire. This is an entirely separate provision of the nonconforming use and building regulations from Section 223-10(D), which the Building Inspector wrongly relies upon here for his position that instead, the use can be extinguished in a day. That's because Section 223-10(D) is not regulating the use, whereas Section 223-10(C) is.

³ Note: As highlighted in the Applicant's September 26, 2023 letter, The City Council is developing the proposed Fishkill Avenue ("FA") Zoning District. Language specific to this proposed zoning district, which would be found at Section 223-41.24, states that "Any existing conforming building that is destroyed by fire or casualty to an extent of more than 50% may be rebuilt on the same footprint and with the same dimensions..." This provision specifically addresses a building destroyed by fire and how it can be rebuilt (maintaining the use). As illustrated by this proposal, if the City wants to amend its Zoning to include new regulations that control when a building is destroyed, it can certainly do so through the City Council, but that power does not permit a Determination(s) that ignores the plain reading of the current legislation in the favor of the property owner, as is required here concerning Zoning Code Section 223-10(D).

FACTS ARE STUBBORN THINGS; AND WHATEVER MAY BE OUR WISHES, OUR INCLINATIONS, OR THE DICTATES OF OUR PASSIONS, THEY CANNOT ALTER THE STATE OF FACTS AND EVIDENCE.
- JOHN ADAMS

As is noted above, a plain reading of Zoning Code Section 223-10(D), entitled “Restoration of damaged buildings”, clearly concerns the dimensional requirement (50% of the volume) of the building, and not the *use* of the building. Indeed, the Zoning Code already regulates when a non-conforming use ceases to exist (for any reason), which in part is: “[i]f any nonconforming use of a building ceases for any reason for a continuous period of more than one year or is changed to a conforming use...” This does not say that a nonconforming *use* ceases after one day; one week; or one month. Thus, it seems that rather than letting the ZBA address the actual issue at hand properly as an Area Variance, it is the Applicant’s position that the Third Determination was issued based on generalized community opposition to the long-standing existing non-conforming use that has not ceased for a continuous period of more than one year;⁴ and now because of a reference to one (1) prior matter (the Antalek Autobody Use Variance approval issued by this Board at 50 South Chestnut) that the Applicant respectfully submits was wrongly considered at that time as a Use Variance. But as is detailed herein, characterizing the relief from Section 223-10(D) as a Use Variance is both wrong on the facts and plain reading of the statute, and wrong on the case law.

While the applicant for the reconstruction of an existing nonconforming auto mechanic shop at 50 South Chestnut Street had applied for a Use Variance in the single-family residential district that the property was located in, in that matter the applicant was either unaware or chose not to avail itself of the law (i.e., an Area Variance), and/or did not need to avail itself of same as a longstanding business owner and family in the City with the local support it had in applying to the ZBA to reconstruct the nonconforming autobody use on the property that had been destroyed more than 50% in a snowstorm. Just because that applicant and their counsel in the Antalek matter chose that path, or was not aware of the appropriate relief (i.e., an Area Variance) does not mean that the Applicant in the instant matter should be so restrained. The only difference here is generalized community opposition based on the *prior* ownership and occupancy of the existing non-conforming SRO multi-family use at the 925 Wolcott property.

However, what cannot be ignored here is that the Applicant in the instant matter had a Building Permit issued to reduce the existing legal nonconformity from 16 units to 9 (nine) units.⁵ Indeed, just this month, the Building Department issued nearly the same building permit approval for an existing SRO multi-family use directly across the street from the Premises at 916 Wolcott Avenue, which will reduce the number of units there from 12 units to 7 (seven) units. Similarly, a building permit was issued at 1256 Wolcott Avenue for an existing non-conforming SRO multi-family use to reduce the number of units from 26 to 22. Here, however, the Applicant is somehow being told that

⁴ Note: This Board upheld a portion of the Building Inspector’s determination that the non-conforming use cannot be re-established after being destroyed by fire, even though the Applicant’s request to do so was well within one (1) year of the destruction, tolling this one (1) year limitation. Furthermore, as this Board is aware, following the Board’s July 18th Determination (which was filed in the Clerk’s Office on July 20th), the Applicant and the City of Beacon agreed to a Tolling Agreement, which tolls the statute of limitations for the Applicant to appeal the July 18th Determination on that specific issue, which the Applicant intends to appeal if the alternative relief sought herein is not granted. All rights are fully reserved.

⁵ Note: As is detailed below herein, this Board can also approve reducing non-conformities as per Zoning Code Section 223-10(C)(3).

because someone else burned down the building, that overnight, the use ceases. And instead of properly allowing the Applicant to reconstruct the building pursuant to the issued building permit – which the Applicant sought to do right away within days of the fire – the Applicant in this instance is told that he must first obtain a Use Variance. While it remains the Applicant's position that the use did not cease when the building was destroyed overnight (and importantly where the use hasn't ceased for a continuous period of one year) – as the Board is still considering the variance relief from Section 223-10(D), it is respectfully submitted that this must in the first instance be considered a request for Area Variance relief from the 50% of volume standard contained therein.

Furthermore, as noted in the Applicant's September 26, 2023 submission, under New York Law, when a multi-family residential use is permitted on a lot, the number of units is a question of an Area Variance. Once a use is legal, a Use Variance is not required for modifications that do not essentially change the nature of said use.⁶ This principle has been extended to the number of dwelling units on a property. See RATHKOPF'S The Law of Zoning and Planning, Section 72:5 (citing Amzalak v. Incorporated Village of Valley Stream, 220 N.Y.S.2d 113 (Nassau Cty. Sup. Ct. 1961)):

Where the use to which a structure was put was a permitted use in the district in which the property was located—although the use was carried on in a converted garage building on the same lot as the principal dwelling, thus lacking conformity with an amendment prohibiting two dwellings on one lot—it was held that a provision requiring the termination of nonconforming uses which had been discontinued for 12 continuous months was not applicable to prevent the resumption of residential use of the rear building after two years of nonuse.

Additionally, the court in Amzalak, 220 N.Y.S.2d at 115, provides that:

...the Court finds that the use to which the building has been put was residential, and that since it is situated in a residential district this use is permitted as of right and not as a non-conforming use. It is unquestionably true that the structure as such does not comply with the area and rear yard requirements of the ordinance, and possibly does not comply with the side yard requirement. However, this renders it only a "non-complying" or a non-conforming building but not a non-conforming use....

Likewise, here, the number of dwelling units on the Premises is a dimensional question which only requires consideration of a request for an Area Variance. The continued existence of the SRO multi-family use is not fundamentally changing the nature of the *residential* use of the Premises.

⁶ See Wilcox v. Zoning Board of Appeals of City of Yonkers, 17 N.Y.2d 249 (N.Y. 1966) (variance relating to a larger multifamily building in an area zoned for multi-family buildings is an Area Variance, not a Use Variance); see also Wambold v. Village of Southampton Zoning Board of Appeals, 140 A.D.3d 891 (2d Dep't 2016); Jacob Realty Property, LLC v. Malcarne, 96 A.D.3d 747 (2d Dep't 2012); Mobile Oil Corporation v. Village of Mamaroneck Board of Appeals, 293 A.D.2d 679 (2d Dep't 2002).

NO AREA VARIANCE IS NEEDED FOR THE DIMENSIONAL ELEMENTS OF THE STRUCTURE TO BE RECONSTRUCTED. IN THE ALTERNATIVE, IF DETERMINED TO BE NECESSARY, THIS AREA VARIANCE RELIEF SHOULD BE GRANTED.

In its January 19, 2023 and March 20, 2023 Determinations, the Building Inspector does not reference the need for any Area Variances specific to the reconstruction of the structure. For the first time, the Building Inspector in their October 13, 2023 Third Determination states that Area Variances are being required for minimum lot size area per unit (10,000 square feet per unit required; 1,978.4 square feet per unit proposed); maximum building height (35 feet and 2.5 stories permitted; 35 feet and 3 stories proposed); and maximum number of units per building (1 unit permitted; 9 units proposed), based on the Site Plan drawing filed with this Board on March 20, 2023.⁷ While this new Third Determination seems to then concede that the relief sought is indeed limited to the dimensional requirements of the building – not the *use* of the building – as is plainly written in Zoning Code Section 223-10(D), it is noted that the nonconformities for lot area and number of units is being reduced, as the reconstructed structure will contain nine (9) units (when originally there were 16 units), while the height of the building will remain the same. The Applicant is not increasing any nonconformities. As a result, based on a plain reading of the Zoning Code, no Area Variances are required specific to these nonconformities.

As detailed hereinabove, pursuant to Section 223-10(C) of the Zoning Code, which controls the nonconforming *use* of a building or structure:

“[s]uch building or structure shall not be enlarged or extended unless the use therein is changed to a conforming use.”

See Zoning Code Section 223-10(C)(1). No nonconformity is being increased here. Moreover, per Section 223-10(C)(3):

“A nonconforming use of a building may be changed only to a use of less nonconformity, as determined by the Board of Appeals.”

Again, here, the intensity of the nonconformities is being reduced, which may be approved by this Board without variances. Additionally, per Section 223-10(E) of the Zoning Code:

“A building that is conforming in use but does not conform to the height, yard, lot area, lot dimension, land coverage, off-street parking, loading, minimum house size or similar dimensional requirements of this chapter shall not be considered to be nonconforming...,” further eliminating the need for Area Variances here.

⁷ Note: In the October 13, 2023 Third Determination, the Building Inspector stated that:

“With the consent of the owner, the walls of the building were demolished to provide the Fire Department access necessary to fully extinguish the fire.”

The Applicant respectfully reminds the Board that this fire was the result of an illegal arson, and the Applicant did not consent to the destruction of the building. These walls had to be demolished, per the Fire Department, in order for the fire to be extinguished and the public safety preserved.

The lack of need for Area Variances here is also supported by New York case law. The New York Supreme Court Appellate Division has consistently held that variances are not required for modifications that do not increase a nonconformity. See Martens v. Zoning Board of Appeals of the Village of Marcellus, 600 N.Y.S.2d 600 (4th Dep't 1993). Where a zoning code prohibits the enlargement of a nonconforming structure in a way that would increase its nonconformity, an addition within an existing footprint of a nonconforming building does not violate this requirement. See Sposato v. Zoning Board of Appeals of Village of Pelham, 732 N.Y.S.2d 19 (2d Dep't 2001) (holding that the proposed new roof design did not require a variance from the zoning board of appeals where the building footprint would not alter).

In the alternative, if determined that Area Variances are required for minimum lot size area per unit (10,000 square feet per unit required; 1,978.4 square feet per unit proposed); maximum building height (35 feet and 2.5 stories permitted; 35 feet and 3 stories proposed); and maximum number of units per building (1 unit permitted; 9 units proposed), these Area Variances should be granted as, through the application of the requisite balancing test, the re-establishment of this long-existing structure will not have a negative impact on the public health, safety, and welfare, as assessed under Section 81-b(4) of the General City Law and Section 223-55(C)(2) of the Zoning Code.

The Applicant refers again to all of the arguments it made in favor of the requested Area Variances in its March 20, 2023 and May 19, 2023 letters to this Board. These arguments are summarized briefly below for the Board's consideration, and expanded on where appropriate as they relate to the specific Area Variances requested.

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 Variances.*

The proposal will not result in a negative change to the character of the neighborhood, as the structure to be reconstructed has long existed on the Premises (since at least 1965), and in fact with the reduction from 16 units to nine (9) units, the minimum lot size per unit is being increased and the number of units being decreased as compared to what was previously on the property. Moreover, the proposed nine (9) units on this 0.41 acre-lot mirrors the character of the seven (7) units approved this month across the street from the property at 916 Wolcott Avenue (a lot of 0.45 acres also in the R1-10 Zoning District), the renovation of which was approved by the Building Department on October 5, 2023 as shown in Building Permit No. 2023-0339 at **Exhibit B** (permitting continuation of the use and renovations on the second and third floors).

In addition to the multi-family use at 916 Wolcott Avenue, the nine (9) units proposed to be reestablished on the Premises reflects the multi-family nature of the surrounding neighborhood, with other multi-family structures and uses in operation or under construction nearby, including, according to the Applicant's understanding, at 895 Wolcott Avenue, along Forrestal Heights, and along Creek Drive.⁸

⁸ See Lodge Hotel, Inc. v. Town of Erwin Zoning Bd. of Appeals, 21 Misc.3d 1120(A) at *4 (Sup. Ct. Steuben Cty. 2007, aff'd 4th Dep't 2007) ("While the work the Town has put into its plan is commendable, denying Area Variances based upon what a municipality hopes the neighborhood will be like in some distant future is an impermissible restriction on the use of property not intended by the applicable statute and is contrary to

2. *Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the Area Variances.*

As also noted in the Applicant's March 20, 2023 and May 19, 2023 submissions, if the Area Variances are not granted, the structure cannot be rebuilt as previously approved, significantly reducing the number of housing units available in the neighborhood and putting further pressure on the City's affordable housing stock and availability. This is in direct contravention of the goals in the City's Comprehensive Plan and the City Council's current and long-standing objectives to provide more affordable housing options within the City of Beacon. There is no other viable alternative available.

Moreover, as shown in the previously submitted financial analyses, including those enclosed at **Exhibit C**, nine (9) units is the minimum required for the Applicant to realize a reasonable return. Failure to grant the variances as requested will reduce the number of units below that, making the repurposing of this now destroyed building and property infeasible.

3. *Whether the requested Area Variances are substantial.*

This requested Area Variances are not substantial as they merely comprise a request to reconstruct the building that already existed on the Premises and to continue the use therein, with a reduction in the number of units from what has existed on the Premises since at least 1965. Furthermore, substantiality is assessed by the impact of the grant of the Area Variances on the neighborhood. As indicated, the nonconforming SRO multi-family use at 916 Wolcott Avenue has recently been approved to be renovated and following those renovations, will contain seven (7) on 0.45 acres, similar in character to what is proposed on the Premises. Moreover, and as noted, the nine (9) units on the Premises reflect the multi-family nature of surrounding properties, including at 895 Wolcott Avenue, and along Forrestal Heights and Creek Drive. The reconstruction will align with the approximate footprint and the same height of the destroyed structure, with the exception of a *de minimis* 625-square foot addition at the rear of the structure that does not require a variance. As a result, the requested variances are not substantial.

4. *Whether the proposed Area Variances will have an adverse effect or impact on the physical or environmental considerations in the neighborhood or district.*

The granting of the Area Variances will not adversely affect the environment of the neighborhood or of the R1-10 Zoning District, as the intensity of the long-established use is being decreased from 16 to nine (9) units, while preserving the existing nonconforming building height. Moreover, it is noted that such reconstruction is considered a Type II Action under SEQRA.

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 Variances.*

case law. Courts have consistently placed great reliance on the effect that the granting of an Area Variance would have on the character of the neighborhood, and the analysis has always been to determine whether the plan sought to be implemented by the Area Variance is out of character with the existing scheme of development").

As highlighted in the Applicant's March 20, 2023 and May 19, 2023 submissions, the need for the Area Variances was not self-created as the original structure was destroyed through an act of arson; nevertheless, the question of self-creation is not determinative for requests for Area Variances.⁹

Pursuant to Section 81-b(4) of the General City Law and Section 223-55(C)(2) of the Zoning Code, the Area Variances requested are the minimum variances necessary – it will merely allow the reconstruction of a formerly existing multi-family, single-room occupancy use with a reduced number of units, and the preservation of the roof line – as was approved by Building Permit No. 2022-0354, prior to the arson fire. As a result, there will be no negative change in the character of the community.

CONCLUSION:

As stated above, it is clear that only an Area Variance is required to reconstruct the long-existing existing nonconforming SRO multi-family use. Moreover, no Area Variances are needed for the dimensions of the proposed reconstruction, although if determined otherwise, the requisite balancing test shows that said Area Variances should be granted.

In further support of this submission please find enclosed the following exhibits:

- Exhibit A:** Building Inspector's October 13, 2023 Third Determination;
- Exhibit B:** Building Permit No. 2023-0339 for 916 Wolcott Avenue;
- Exhibit C:** September 26, 2023 and September 19, 2023 Memoranda prepared by Hudson Property Advisors, LLC; and
- Exhibit D:** Revised Zoning Board of Appeals Application Form.

We respectfully request that this letter and the referenced exhibits be included as a part of the record of the proceedings in this matter. In the meantime, should this Board or City Staff have any questions or comments with regard to the foregoing, please do not hesitate to contact me.

Very truly yours,



Taylor M. Palmer

Enclosures

cc: Bruce Flower – City of Beacon Building Inspector (via e-mail)
Keane & Beane, P.C. – ZBA Attorney (via e-mail)
Hudson Property Advisors, LLC (via e-mail)
Maximillian R. Mahalek, Esq. (via e-mail)
925 Wolcott LLC (via e-mail)

⁹ See Millpond Management, Inc. v. Town of Ulster Zoning Bd. of Appeals, 42 A.D.3d 804, 805 (3d Dep't 2007).

Exhibit A



CITY OF BEACON New York Building Department

*Bruce Flower
Building Inspector*

*845-838-5020
Email: bflower@beaconny.gov*

MEMORANDUM

TO: Taylor Palmer, Esq.
Cuddy & Feder, LLP

FROM: Bruce Flower, Building Inspector
City of Beacon

RE: 925 Wolcott LLC
Determination on Variance Type
(Relief Sought from 50% Threshold/City Code § 223-10.D)

DATE: October 13, 2023

This Memorandum constitutes my determination concerning whether 925 Wolcott LLC (the “Applicant”) can obtain relief from standards imposed under City Code § 223-10.D (continuation of a zoning non-conformity) by way of an area variance. For the reasons set forth in this Memorandum I have determined the relief requested (which the Applicant presents as an area variance from the 50% threshold specified in City Code § 223-10.D) so that a multi-family or SRO use may be restored on its property is, instead, a use variance. Simultaneously, the variance to permit reconstruction of the building on these premises (in conformity with City Code use requirements) is an area variance.

A. Facts

The property located at 925 Wolcott Avenue, known and designated on the Tax Map of the City of Beacon as Parcel No. 5954-44-922633 (the “Property”), was improved with a three-story, multi-family building with a gross floor area of approximately 4,136 square feet (the “Boardinghouse”). The building was constructed in 1965 and used as a boardinghouse at that time. The Property is in the R1-10 Zoning District. Under current zoning, the only residential

uses permitted in the R1-10 Zoning District are one-family detached dwellings. Therefore, the boardinghouse/multi-family dwelling constitutes a nonconforming use on the Property.

On January 3, 2023, the building housing the non-conforming boardinghouse/multi-family dwelling use was destroyed by fire. With the consent of the owner, the walls of the building were demolished to provide the Fire Department access necessary to fully extinguish the fire.

B. History of Application

On January 19, 2023, I issued a determination that held that a nonconforming multi-family or single-room occupancy (“SRO”) use could not be re-established at the Property pursuant to City Code § 223-10.D.

On March 20, 2023, the Applicant submitted an application to the City of Beacon Zoning Board of Appeals (“ZBA”), appealing from and seeking an interpretation of City Code § 223-10.D in regard to my January 19, 2023 determination.

On the same day, I issued a successive determination holding that a nonconforming multi-family or SRO use could not be re-established at the Property pursuant to City Code §§ 223-10.C(5), 223-10.C(2), and 223-10.D.

On May 19, 2023, the Applicant submitted a letter to the ZBA in furtherance of its application, seeking an interpretation of City Code §§ 223-10.C(5), 223-10.C(2), and 223-10.D as they relate to the re-establishment of a nonconforming multi-family or SRO use on the Property.

The Applicant’s submissions dated March 20, 2023 and May 19, 2023, together, constitute the application under review by the ZBA, which consists of requests for the following: (i) an interpretation of City Code §§ 223-10.C(5), 223-10.C(2), and 223-10.D in regard to my January 19, 2023 and March 20, 2023 determinations; (ii) in the alternative, an area variance from City Code §§ 223-10.C and 223-10.D to permit reconstruction of a structure previously containing a non-conforming use; or (iii) in the second alternative, a use variance from City Code § 223-17.C to permit a multi-family or SRO building in the R1-10 Zoning District (the “Application”).

At its June 21, 2023 meeting, the ZBA opened a public hearing on the interpretation portion of the Application. By Decision and Resolution dated July 18, 2023, the ZBA sustained my March 20, 2023 determination that the use could not be re-established under City Code § 223-10.D, but reversed my determination that the language of City Code §§ 223-10.C(5) and 223-10.C(2) foreclosed re-establishing this use.

To the extent that only the portion of my March 20, 2023 determination relying on **City Code § 223-10.D** was affirmed by the ZBA, the Applicant is now seeking variance relief from this provision of the City Code. The Applicant asks for *area* variance relief to permit the reconstruction of the building that was destroyed, or, in the alternative, a use variance from **City Code § 223-17.C** to permit a multi-family or SRO building in the R1-10 Zoning District.

I reviewed this request and now render a determination as to whether the appropriate variance for the Applicant to seek is an area variance from **City Code § 223-10.D**, or a use variance from **City Code § 223-17.C**.

C. Findings

City Code § 223-10.D provides as follows:

Restoration of damaged buildings. If any nonconforming building shall be destroyed by any means to an extent of more than 50%, no repairs or reconstruction shall be made unless every portion of such building is made to conform to all the regulations of this chapter for the district in which it is located. Where the destruction of such nonconforming building is less than 50%, it may be restored and the nonconforming use continued, provided that the total cost of such restoration does not exceed the replacement value of the destroyed portion of the building at the time of its destruction and further provided that such restoration is started within a period of six months of such destruction and is diligently prosecuted to completion. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any wall declared unsafe by the Building Inspector.

General City Law § 81-b defines an area variance as “the authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.” The same section of **General City Law** defines a use variance as “the authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.” Thus, unlike a use variance, an area variance does not involve a use that is prohibited by the zoning ordinance. Instead, area variances involve matters such as setback lines, frontage requirements, lot size restrictions, density regulations, yard requirements, and other *dimensional* requirements. These are restrictions that are intrinsic to a lot—that is, restrictions that are predicated upon the size and dimensional characteristics of the property in question, not the use to which it is or may be committed.

The 50% threshold stated in **City Code § 223-10.D** refers to the volume of a nonconforming building and is utilized as a parameter for purposes of determining whether a non-conformity may continue following damage or casualty. The purpose of the 50% threshold is not to set dimensional standards for improvements/structures upon lots in zoning districts (e.g., setbacks, lot size, required yards, etc.). Rather, it is used to determine eligibility to restore a non-conformity without having to conform to both the City's bulk *and* use regulations. In other words, if a non-conforming building (non-conforming in terms of use or dimensional requirements) is destroyed by any means to an extent of more than 50%, it is no longer eligible to continue/retain its prior nonconforming status.

As relevant to this Application, the building was undoubtedly destroyed by more than 50%. Thus, because it exceeded this standard, it must now comply with *all* regulations of the City's Zoning Code. This means that any structure on the Property must comply with *both* the bulk *and* use regulations.

In this case, the Applicant is seeking to continue a nonconforming use on the Property. As per **City Code § 223-10.D**, the prior nonconforming use was extinguished the moment the building was destroyed by more than 50%. Thus, because the Applicant is seeking to permit the use of land which is proscribed by the Zoning Code (i.e., a multi-family or SRO use in the R1-10 Zoning District), this calls for a use variance from **City Code § 223-17.C**.

Although the 50% threshold is a mathematical measure, this does not render it subject to relief under area variance standards. In this case, this threshold pertains to the use of the Property, not dimensional limitations placed upon improvement of the Property.

Conversely, and for the sake of example, if the Applicant was seeking to reconstruct the building while retaining *only* any prior nonconforming dimensional aspects of the building, then an area variance from those dimensional regulations would be the appropriate means, as it would not involve a use that is prohibited by the City Code. However, from the moment that the nonconforming use was extinguished, and the Applicant is seeking to continue that nonconforming use, the relief sought must be a use variance.

Put differently, the benefit the Applicant seeks determines the appropriate avenue for relief. If the Applicant was seeking to reconstruct the building while retaining *only* nonconforming dimensional aspects, it would need *only* an area variance. If the Applicant was seeking to reconstruct the building while retaining *only* nonconforming use aspects, it would need *only* a use variance. If the Applicant was seeking to reconstruct the building while retaining *both* nonconforming dimensional *and* use aspects, it would need *both* an area variance *and* a use variance.

From the moment that the Applicant is seeking to continue a prior nonconforming use after the building was destroyed to an extent of more than 50%, **it must pursue a use variance from City Code § 223-17.C to permit the use of land which is proscribed by the Zoning Code.**

At the same time, after reviewing the Applicant's application, it appears as though the Applicant is seeking to reconstruct the structure previously located on the Property pursuant to the plans that were included with the Applicant's March 20, 2023 submission to the ZBA. Said plans are titled (i) "Renovation of Existing House," prepared by David Niemotko Architects, P.C., and last revised November 25, 2022; and (ii) "Plot Plan," prepared by David Niemotko Architects, P.C., and dated March 17, 2023. To that end, **the Applicant must also pursue area variances from City Code § 223-17.D to address the nonconforming dimensional aspects of the building.**¹

Additionally, it is my understanding that the City has previously treated requests for relief from **City Code § 223-10.D** as use variances. For example, in the 2010 application made by Mr. Andrew Antalek for relief from **City Code § 223-10.D** with respect to property located at 50 South Chestnut Street, the application was treated as a use variance to allow the reconstruction of a pre-existing nonconforming building that was destroyed to an extent of more than fifty percent (50%). Resolution 2011-14, which was the ZBA's resolution of approval for that application, was submitted with the Applicant's August 29, 2023 submission to the ZBA.

D. Conclusion

After review of the City Code, I have determined that the appropriate classification of the variance required by the Applicant to continue the prior nonconforming use on the Property is a use variance, while the appropriate classification of the variance required to reconstruct the building on the Property (provided the building conforms to use requirements) is an area variance.

¹ As per the drawings included in the Applicant's March 20, 2023 submission to the ZBA, the nonconforming dimensional aspects of the project *provisionally* include: (i) Minimum Lot Size Area – Per Unit (Square Feet); (ii) Maximum Height Main Building; and (iii) Maximum Number of Units per Building. If the Applicant is seeking to construct the new building in accordance with different plans, such plans should be submitted to the Building Department for my review. In any event, the Applicant must confirm/submit the applicable construction plans so that the required area variances, if any, are accurately determined.

Exhibit B



NO. 2023-0339

City of Beacon
One Municipal Plaza - Suite 1
Beacon, New York 12508

Building Permit

Issued Date: **10/5/2023**
Expiration Date: **10/4/2025**

Construction Address: **916 Wolcott Ave**
SBL: **5954-44-944642** **40 Catskill High Rd**

Owner's Name **916 Wolcott LLC**
& Address **40 Catskill High Rd**

Monroe NY 10950

Applicant: **916 Wolcott LLC**

Permit to Commence the Following Work:

- RENOVIATION TO 2ND& THIRD FLOOR OF BUILDING
- 3SRO UNITS ON 2ND & 1 UNIT ON 3RD

Fees:

BUILD

\$2,073.00

Total: \$2,073.00

Approved

Brian Flower

Work must begin within 6 (six) months from date of issue. Permit expires 2 (two) years from date of issue. Occupancy in whole or part of building without a Certificate of Occupancy is prohibited by law.

Exhibit C

HUDSON PROPERTY ADVISORS, LLC

★ ★ ★ ★ ★
10 SOUTH MOGER AVENUE, MOUNT KISCO, NEW YORK 10549
WWW.HUDSONPROPERTYADVISORS.COM
TEL. 914-244-3400

M E M O

To: Taylor M. Palmer, Esq., Cuddy & Feder LLP and City of Beacon Zoning Board of Appeals

From: Jonathan Bernz, MAI, Hudson Property Advisors, LLC (“HPA”)

Date: September 26, 2023

Re: 925 Wolcott LLC (the “Applicant”)
925 Wolcott Avenue, City of Beacon, Dutchess County, New York (“Project Site”)
(HPA File No. 2023.04019)

This Memorandum is respectfully submitted in response to comments from the City of Beacon Zoning Board of Appeals (“ZBA”) at its September 19, 2023 Public Hearing regarding the above-referenced matter. This Memorandum has been prepared at the request of the “Applicant” (925 Wolcott, LLC) and is a supplement to HPA’s Report dated May 18, 2023 and Memoranda dated August 28, 2023 and September 19, 2023.

During the September 19, 2023 ZBA public hearing, the ZBA requested certain information from the Applicant. Applicant provided the following information to HPA for analysis:

1. Purchase price: \$650,000
2. Clean Up Costs: Approximately: \$40,000
3. Taxes/Insurance Premiums/Mortgage Payments: Approximately \$62,000
4. Acquisition Loan: \$585,000
5. Construction Loan: \$485,000
6. Insurance payout: \$977,400 (following 10% public adjuster fee from initial payout of \$1,086,000)
7. Monthly Income before work: \$20,333
8. Monthly Income for 9 units: \$17,550
9. Appraised value: \$1,700,000 (May 2022 Appraisal Date)
10. Taxable Value of Land and Improvements: \$650,000 (July 1, 2022 valuation date stated in City’s Assessment Roll)
11. Taxable Value of Land: \$150,000 (July 1, 2022 valuation date stated in City’s Assessment Roll)

12. The Property was insured for \$ 1,086,000, which is roughly the amount of the acquisition loan (\$585,000) plus the amount of the construction loan (\$485,000), the “Loans.”

Notably, Items 1 and 2 above were previously incorporated in HPA’s September 19, 2023 Memorandum. The remainder of the items (including insurance payouts) are not included in a financial feasibility analysis of a proposed use of land, as said feasibility analysis determines the rent or sale value necessary to justify new construction. Applicant reported that the insurance payout of \$977,400 was \$92,600 less than the total amount of the loans (\$1,070,000) which the payout was used for.

Conclusion

Collectively, as detailed in our Zoning Feasibility Analysis submissions to this Board to date, our analysis confirms that the Applicant cannot realize a reasonable return by using the Project Site for fewer than nine (9) units, which represents the minimum relief necessary to achieve a viable return.

###

HUDSON PROPERTY ADVISORS, LLC

★ ★ ★ ★ ★
10 SOUTH MOGER AVENUE, MOUNT KISCO, NEW YORK 10549
WWW.HUDSONPROPERTYADVISORS.COM
TEL. 914-244-3400

M E M O

To: Taylor M. Palmer, Esq., Cuddy & Feder LLP and City of Beacon Zoning Board of Appeals

From: J. Bernz, MAI, Hudson Property Advisors, LLC (“HPA”)

Date: September 19, 2023

Re: 925 Wolcott LLC (the “Applicant”)
925 Wolcott Avenue, City of Beacon, Dutchess County, New York (“Project Site”)
(HPA File No. 2023.04019)

This memorandum is respectfully submitted in response to comments from the City of Beacon Zoning Board of Appeals (“ZBA”) at its August 15, 2023 public hearing regarding the above-referenced matter. This Memorandum has been prepared at the request of Applicant’s Counsel and is a supplement HPA’s May 18, 2023 Report and August 28, 2023 Memorandum.

The purpose of this Memorandum is to demonstrate, through conventional financial analysis and an evaluation of a variety of Alternatives, whether the Applicant can realize a reasonable return by using the Project Site for multi-family / SRO residential use. The following analysis confirms that the Applicant’s nine (9) unit proposal is the minimum relief necessary to achieve a viable return.

For the ZBA’s further consideration, HPA analyzed the following Alternatives:

	Description	GBA
Proposed Action	Three-story building with nine (9) rental apartments	3,670
Alt. 1	Three-story building with eight (8) rental apartments	3,670
Alt. 1a	Three-story smaller size building with eight (8) rental apartments	3,262
Alt. 2	Three-story same size building with seven (7) rental apartments	3,670
Alt. 2a	Three-story smaller size building with seven (7) rental apartments	2,854
Alt. 3	Three-story same size building with six (6) rental apartments	3,670
Alt. 3a	Three-story smaller size building with six (6) rental apartments	2,447
Alt. 4	Two-story same size building with four (4) rental apartments	3,670
Alt. 4a	Two-story smaller size building with four (4) rental apartments	1,631

The analysis contained herein demonstrates the feasibility viability that would be provided to the Project Site if developed with the uses summarized in the above chart. A feasibility analysis can be quantitative or qualitative, or a combination of both and the methodology used to demonstrate economic viability can vary depending on a variety of factors ranging from physical, functional and economic and market-related

issues. A quantitative method of determining economic viability is to test each of the individual uses in terms of their feasibility rent; i.e., to compare a calculated feasibility rent to market rent to determine whether a particular use is financially feasible. For example, if market rent level for a particular use is above feasibility rent then that use would be expected to be financially feasible/economically viable. Conversely, if market rent level for a particular use is below feasibility rent, then that use would not be expected to be financially feasible/economically viable as it would not produce sufficient return to the property.

Determining financial feasibility using a quantitative model involves the following steps:

1. Obtain a Construction Cost Estimate. The owner provided us with construction cost based on \$275.00 per sq. ft. for construction hard costs which was used in each of the alternatives. In addition to construction hard costs, an allocation for construction soft costs is also necessary. Construction soft costs typically include site planning, engineering, design, architectural and other professional input. An allocation of 15% of construction hard costs is applied under each alternative.
2. Add land acquisition costs (the acquisition cost of the site was \$650,000 and the cost of demolition and removal of the improvements following a fire was \$38,000 for a total cost of \$688,000) to total construction costs to arrive at Total Project Cost.
3. Derivation of an appropriate Overall Capitalization Rate ("OAR," "R" or " R_O ") applicable to the specific use being studied. Capitalization is the process of converting income into a present value (market value) estimate. A capitalization rate is "A ratio of one year's net operating income provided by an asset to the value of the asset; used to convert income into value in the application of the income capitalization approach."¹ Capitalization rates vary according to property use and there are several methods of determining appropriate capitalization rates. The most common methods include (1) investor surveys, (2) calculation of an OAR from other market indices and (3) abstraction of a capitalization rate from market sales/transactional data.

Among the most prominent investor surveys is the PriceWaterhouseCoopers Real Estate Investor Survey. This survey, however, is geared toward institutional grade investments (substantially larger asset size) and is not necessarily indicative of the asset class analyzed herein. It is used as a general guide only.

With respect to derivation of a capitalization rate using other market indices, the most common technique is known as the "band of investment" technique. This technique assumes that most properties are purchased with debt and equity capital; therefore, the overall capitalization rate must satisfy the market return requirements of both investment positions. The lender/mortgagee must anticipate a rate of return that is appropriate for the investment's perceived risk in order to make the loan; the loan principal is typically repaid through periodic amortization payments. The equity investor/mortgagor must also anticipate a rate of return that is commensurate with the investment's perceived risk or they opt for an alternative investment. "Band of Investment" is defined as "[a] technique in which the capitalization rates attributable to components of an investment are weighted and combined to derive a weighted-average rate attributable to the

¹ Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. "capitalization rate", (Chicago: Appraisal Institute, 2022), PDF e-book.

total investment (i.e., debt and equity, land and improvements).”² This technique involves application of typical loan terms (mortgage rates, loan-to-value ratios, term) for the particular property type being analyzed. It also requires application of an appropriate equity yield rate for the particular property type being analyzed. An “equity yield rate” is “The rate of return on the equity capital invested.”³ As real estate competes with investments in the capital markets, other rates, including bond and Treasury bill yields, are frequently considered. Characteristics that affect required rates of return for real estate versus alternative investments include risk, liquidity, management, and the possibility of value appreciation or depreciation during the holding period. Therefore, these investment vehicles are frequently considered superior to a real estate investment because they are less risky, and more liquid.

Abstraction of capitalization rates from the market involves research and analysis of an investment property transaction (or a group of investment property transactions) where the selling price is confirmed and net income (NOI) at the time of sale can be obtained. The NOI is compared to the sale price to derive an overall capitalization rate. Disadvantages of this method include (1) the scarcity of available data (i.e., the limited number of transactions such that the sample size may be statistically insignificant) and (2), the difficulty in obtaining actual net operating income at the time of sale as it is not information that is publicly available.

In the instant case, rates used herein are consistent with our understanding of this general market area for this property type (multi-family residential) and have been corroborated by the owner’s expectation.

4. Once an appropriate OAR is derived, it is applied to the construction cost estimate to arrive at Net Operating Income (NOI) that could potentially be generated under each Alternative.
5. An estimate of Operating Expenses (OPEX) ratio for the specific uses being studied is also necessary. Given the property type, the fact that it would represent new construction, with individual tenants responsible for heat and utilities, a ratio of 30% is reasonable, appropriate and consistently applied under each of the Alternatives.
6. The OPEX is added to the NOI to arrive at Effective Gross income (EGI) that could potentially be generated under each Alternative.
7. An estimate of vacancy/credit loss is also required. In the economic life of a rental property, tenant turnover causes temporary vacancies. In fact, very few rental properties remain fully occupied for extended time periods. An allowance for vacancy and collection loss is therefore necessary to include primarily to reflect the rent loss attributable to these periods of vacancy and tenant turnover. Vacancy allowance of 5.0% is added to EGI to arrive at Potential Gross Income (PGI) that the use could potentially produce, otherwise known as “Feasibility Rent.” This figure is shown on an annual basis.
8. An estimate of market rent for each of the Alternative uses is necessary. “Market Rent” is defined as “The most probable rent that a property should bring in a competitive and open market under

² Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. “band of investment”, (Chicago: Appraisal Institute, 2022), PDF e-book.

³ Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. “equity yield rate”, (Chicago: Appraisal Institute, 2022), PDF e-book.

all conditions requisite to a fair lease transaction, the lessee and lessor each acting prudently and knowledgeably, and assuming the rent is not affected by undue stimulus. Implicit in this definition is the execution of a lease as of a specified date under conditions whereby:

- Lessee and lessor are typically motivated;
- Both parties are well informed or well advised, and acting in what they consider their best interests;
- Payment is made in terms of cash or in terms of financial arrangements comparable thereto; and
- The rent reflects specified terms and conditions typically found in that market, such as permitted uses, use restrictions, expense obligations, duration, concessions, rental adjustments and revaluations, renewal and purchase options, frequency of payments (annual, monthly, etc.), and tenant improvements (TIs)."⁴

The owner ("Applicant") provided estimates of anticipated achievable market rent for the various Alternatives studied. These estimates are adopted within the analysis. It is noted that for Alternatives 1, 2, 3 and 4, the analysis utilizes the same size building as the proposed action (3,670 sq. ft.) - however, since the building size remains constant, the average unit size increases and the unit rent also increases). It is also noted that for Alternatives 1a, 2a, 3a and 4a, the building size is reduced correspondingly (proportionately, based on reduced number of units). Under these Alternatives, the average unit size (and the unit rent) remains constant.

9. Feasibility Rent is compared to market rent under each alternative. If market rent level for a particular use is above feasibility rent, then that use would be expected to be financially feasible/economically viable. Conversely, if market rent level for a particular use is below feasibility rent, then that use would not be expected to be financially feasible/economically viable. However, although a particular Alternative may result in a positive return, it may not result in a sufficient return. In order to test the return allocable to the Proposed Action and the various Alternatives, the Rent Differential is compared to Feasibility Rent on a percentage basis.

The chart on the following page demonstrates that the Proposed Action is financially feasible. It also shows that all of the other Alternatives are not financially feasible.

⁴ The Dictionary of Real Estate Appraisal, 7th Edition, (Chicago, IL, Appraisal Institute: 2022), "market rent," PDF e-book, p. 117.

Zoning Feasibility Analysis

FEASIBILITY RENT CALCULATIONS	Proposed Action	Alt. 1	Alt. 1a	Alt. 2	Alt. 2a	Alt. 3	Alt. 3a	Alt. 4	Alt. 4a
Program Description	Three-story building with nine (9) rental apartments	Three-story same size building with eight (8) rental apartments	Three-story smaller size building with eight (8) rental apartments	Three-story same size building with seven (7) rental apartments	Three-story smaller size building with seven (7) rental apartments	Three-story same size building with six (6) rental apartments	Three-story smaller size building with six (6) rental apartments	Two-story same size building with four (4) rental apartments	Two-story smaller size building with four (4) rental apartments
No. Stories	3	3	3	3	3	3	3	2	2
Potential GBA (SF)	3,670	3,670	3,262	3,670	2,854	3,670	2,447	3,670	1,631
No. Res. Units	9	8	8	7	7	6	6	4	4
Const. Hard Cost/SF	\$275	\$275	\$275	\$275	\$275	\$275	\$275	\$275	\$275
Total Hard Construction Cost, Rd.	\$1,009,250	\$1,009,250	\$897,111	\$1,009,250	\$784,972	\$1,009,250	\$672,833	\$1,009,250	\$448,556
Soft Costs (%)	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%
Soft Costs	\$151,388	\$151,388	\$134,567	\$151,388	\$117,746	\$151,388	\$100,925	\$151,388	\$67,283
Total Construction Costs	\$1,160,638	\$1,160,638	\$1,031,678	\$1,160,638	\$902,718	\$1,160,638	\$773,758	\$1,160,638	\$515,839
Land Acquisition	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000
Total Project Cost (incl. land)	\$1,848,638	\$1,848,638	\$1,719,678	\$1,848,638	\$1,590,718	\$1,848,638	\$1,461,758	\$1,848,638	\$1,203,839
Total Project Cost, Rd.	\$1,850,000	\$1,850,000	\$1,720,000	\$1,850,000	\$1,590,000	\$1,850,000	\$1,460,000	\$1,850,000	\$1,200,000
Overall Capitalization Rate (OAR)	6.75%	6.75%	6.75%	6.75%	6.75%	6.75%	6.75%	6.75%	6.75%
Net Operating Income (NOI) Required	\$124,875	\$124,875	\$116,100	\$124,875	\$107,325	\$124,875	\$98,550	\$124,875	\$81,000
Operating Expense Ratio (Typ.)	30%	30%	30%	30%	30%	30%	30%	30%	30%
Operating Expenses (Expense Ratio x EGI)	\$53,518	\$53,518	\$49,757	\$53,518	\$45,996	\$53,518	\$42,236	\$53,518	\$34,714
Effective Gross Income (EGI = NOI + Expenses)	\$178,393	\$178,393	\$165,857	\$178,393	\$153,321	\$178,393	\$140,786	\$178,393	\$115,714
Vacancy Rate	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
Feasibility Rent (Required Potential Gross Income)	\$187,782	\$187,782	\$174,586	\$187,782	\$161,391	\$187,782	\$148,195	\$187,782	\$121,805
Feasibility Rent, Rd.	\$187,800	\$187,800	\$174,600	\$187,800	\$161,400	\$187,800	\$148,200	\$187,800	\$121,800
Loss Factor	26%	26%	26%	26%	26%	26%	26%	26%	26%
Total Rentable Sq. Ft.	2,728	2,716	2,414	2,716	2,112	2,716	1,811	2,716	1,207
Average Unit Size(sq. ft.)	303	339	302	388	302	453	302	679	302
Market Rent/Sq. Ft. (owner)									
Average Unit Rent/mo. (owner)	\$1,950	\$2,000	\$1,950	\$2,150	\$1,950	\$2,250	\$1,950	\$2,550	\$1,950
Potential Gross Income/Mo.	\$17,550	\$16,000	\$15,600	\$15,050	\$13,650	\$13,500	\$11,700	\$10,200	\$7,800
Total Achievable Income (annual)	\$210,600	\$192,000	\$187,200	\$180,600	\$163,800	\$162,000	\$140,400	\$122,400	\$93,600
Total Achievable Rent, Rd.	\$211,000	\$192,000	\$187,000	\$181,000	\$164,000	\$162,000	\$140,000	\$122,000	\$94,000
Rent Differential									
Market Rent less Feasibility Rent	\$23,200	\$4,200	\$12,400	-\$6,800	\$2,600	-\$25,800	-\$8,200	-\$65,800	-\$27,800
Use Feasibility	Feasible	Feasible	Feasible	Not Feasible	Feasible	Not Feasible	Not Feasible	Not Feasible	Not Feasible
Return (Rent Differential/Feasibility Rent)	12.4%	2.2%	7.1%	-3.6%	1.6%	-13.7%	-5.5%	-35.0%	-22.8%

Notes:

1. Various assumptions provided by Client
2. Feasibility Rent is "the rent necessary to justify new construction."
2. Methodology used above taken from Appraisal Institute (Feasibility Rent)

Conclusion

The above Zoning Feasibility Analysis financially demonstrates that the Applicant cannot realize a reasonable return by using the Project Site for fewer than nine (9) residential apartments (Proposed Action). The preceding analysis demonstrates the Applicant's inability to realize a reasonable return if developed with fewer than nine (9) units. The Proposed Action results in a 12.4% positive return which is considered viable. Although Alternatives 1, 1a and 2a also result in positive returns, they are not viable as they are insufficient to warrant development (2.2%, 7.1% and 1.6% respectively). All of the other Alternatives are not feasible as they result in negative returns.

In summary, the analysis confirms that the Applicant's nine (9) unit proposal is the minimum relief necessary to achieve a viable return.

###

Exhibit D

ZONING BOARD OF APPEALS

City of Beacon, New York

APPLICATION FOR APPEAL

OWNER: 925 Wolcott LLC

ADDRESS: 40 Catskill High Rail
Monroe, NY 10950

TELEPHONE: 917-626-4268

E-MAIL: yeshiaberger@gmail.com

APPLICANT (if not owner): _____

ADDRESS: _____

TELEPHONE: _____

E-MAIL: _____

REPRESENTED BY: Taylor M. Palmer, Esq.
Cuddy & Feder LLP

ADDRESS: 445 Hamilton Avenue, 14th Floor
White Plains, NY 10601

TELEPHONE: 914-761-1300

E-MAIL: tpalmer@cuddyfeder.com

PROPERTY LOCATION: 925 Wolcott Avenue

ZONING DISTRICT: R1-10

TAX MAP DESIGNATION: SECTION 5954

BLOCK 44 LOT 922633-0000

Section of Zoning Code appealed from or Interpretation desired:

Section 223-10.D and Section 223-17.C. See Cover Letter attached and Submissions Filed to Record previously.

Reason supporting request:

See Cover Letter attached and Submissions Filed to Record previously.

Supporting documents submitted herewith: Site Plan, Survey, etc. as required:

See Cover Letter attached and Submissions Filed to Record previously.

Date: October 31, 2023

Owner's Signature

Fee Schedule

AREA VARIANCE	\$ 250
USE VARIANCE	\$ 500
INTERPRETATION:	\$ 250
ESCROW FEE:	\$1000
I & I INSPECTION:	\$50

Applicant's Signature

APPLICATION PROCESSING RESTRICTION LAW

Affidavit of Property Owner

Property Owner: 925 Wolcott LLC

If owned by a corporation, partnership or organization, please list names of persons holding over 5% interest.
Yeshia Berger

List all properties in the City of Beacon that you hold a 5% interest in:

1256 North Avenue - Owned by separate entity

916 Wolcott Avenue - Owned by separate entity,

Applicant Address: 40 Catskill High Rail, Monroe, NY 10950

Project Address: 925 Wolcott Avenue, Beacon, NY 12508

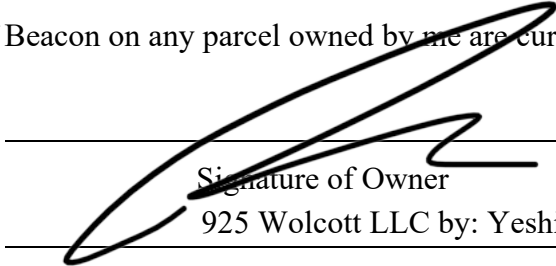
Project Tax Grid # 5954-44-922633-0000

Type of Application Interpretation (Alternative: Area Variance).

Please note that the property owner is the applicant. "Applicant" is defined as any individual who owns at least five percent (5%) interest in a corporation or partnership or other business.

I, Yeshia Berger, the undersigned owner of the above referenced property, hereby affirm that I have reviewed my records and verify that the following information is true.

- | | |
|---|------------|
| 1. No violations are pending for ANY parcel owned by me situated within the City of Beacon | <u>N/A</u> |
| 2. Violations are pending on a parcel or parcels owned by me situated within the City of Beacon | <u>X</u> |
| 3. ALL tax payments due to the City of Beacon are current | <u>X</u> |
| 4. Tax delinquencies exist on a parcel or parcels owned by me within the City of Beacon | <u>N/A</u> |
| 5. Special Assessments are outstanding on a parcel or parcels owned by me in the City of Beacon | <u>N/A</u> |
| 6. ALL Special Assessments due to the City of Beacon on any parcel owned by me are current | <u>X</u> |



Signature of Owner

925 Wolcott LLC by: Yeshia Berger, Member

Title if owner is corporation

Office Use Only:	NO	YES	Initial
Applicant has violations pending for ANY parcel owned within the City of Beacon (Building Dept.)	___	___	___
ALL taxes are current for properties in the City of Beacon are current (Tax Dept.)	___	___	___
ALL Special Assessments, i.e. water, sewer, fines, etc. are current (Water Billing)	___	___	___

FOR OFFICE USE ONLY

Application #

CITY OF BEACON**1 Municipal Plaza, Beacon, NY****Telephone (845) 838-5000 • <http://beaconny.gov/>****INDIVIDUAL DISCLOSURE FORM**

(This form must accompany every land use application and every application for a building permit or certificate of occupancy submitted by any person(s))

Disclosure of the names and addresses of all persons) filing a land-use application with the City is required pursuant to Section 223-62 of the City Code of the City of Beacon. Applicants shall submit supplemental sheets for any additional information that does not fit within the below sections, identifying the Section being supplemented.

SECTION AName of Applicant: 925 Wolcott LLCAddress of Applicant: 40 Catskill High Rail, Monroe, NY 10950Telephone Contact Information: 917-626-4268**SECTION B. List all owners of record of the subject property or any part thereof.**

Name	Residence or Business Address	Telephone Number	Date and Manner title was acquired	Date and place where the deed or document of conveyance was recorded or filed.
925 Wolcott LLC	40 Catskill High Rd Monroe, NY 10950	917-626-4268	July 13, 2022 Deed	July 28, 2022 Dutchess County Clerk

SECTION B. Is any owner of record an officer, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to a City Council member, planning board member, zoning board of appeals member or employee of the City of Beacon ?

☐ YES

☒ NO

If yes, list every Board, Department, Office, agency or other position with the City of Beacon with which a party has a position, unpaid or paid, or relationship and identify the agency, title, and date of hire.

Agency	Title	Date of Hire, Date Elected, or Date Appointed	Position or Nature of Relationship

SECTION C. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modification and amendments thereto, shall be submitted with the application.

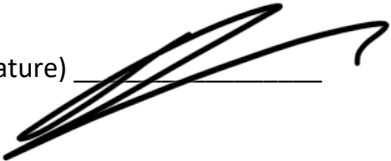
SECTION D. Have the present owners entered into a contract for the sale of all or any part of the subject property and, if in the affirmative, please provide a duplicate original or photocopy of the fully and complete contract of sale, including all riders, modifications and amendments thereto.

☐ YES

☒ NO

I, Yeshia Berger being first duly sworn, according to law, deposes and says that the statements made herein are true, accurate, and complete.

925 Wolcott LLC
(Print) By: Yeshia Berger

(Signature) 

FOR OFFICE USE ONLY
Application #

CITY OF BEACON

1 Municipal Plaza, Beacon, NY

Telephone (845) 838-5000 • <http://beaconny.gov/>

ENTITY DISCLOSURE FORM

(This form must accompany every land use application and every application for a building permit or certificate of occupancy submitted by any entity)

Disclosure of the names and addresses of all persons or entities owning any interest or controlling position of any Limited Liability Company, Partnership, Limited Partnership, Joint Venture, Corporation or other business entity (hereinafter referred to as the "Entity") filing a land-use application with the City is required pursuant to Section 223-61.4 of the City Code of the City of Beacon. If any Member of the Entity is not a natural person, then the names and addresses as well as all other information sought herein must be supplied about the non-natural person member of that Entity, including names, addresses and Formation filing documents. Applicants shall submit supplemental sheets for any additional information that does not fit within the below sections, identifying the Section being supplemented.

SECTION A.

IF AFFIANT IS A PARTNERSHIP, JOINT VENTURE OR OTHER BUSINESS ENTITY, EXCEPT A CORPORATION:

Name of Entity 925 Wolcott LLC	Address of Entity 40 Catskill High Rail Monroe, NY 10950
Place where such business entity was created New York State Department of State	Official Registrar's or Clerk's office where the documents and papers creating entity were filed New York State Department of State DOC ID: 6467643
Date such business entity or partnership was created 04/26/2022	Telephone Contact Information 917-626-4268

IF AFFIANT IS A CORPORATION:

Name of Entity	Telephone Contact Information
Principal Place of Business of Entity	Place and Date of incorporation
Method of Incorporation	Official place where the documents and papers of incorporation were filed

--	--

SECTION B. List all persons, officers, limited or general partners, directors, members, shareholders, managers, and any others with any interest, mortgage, encumbrance or other interest (recorded or unrecorded) in or with the above referenced Entity. List all persons to whom corporate stock has been pledged, mortgaged or encumbered and with whom any agreement has been made to pledge, mortgage or encumber said stock. Use a supplemental sheet to list additional persons.

Name	Resident Address	Resident Telephone Number	Nature and Extent of Interest
Yeshia Berger	40 Catskill High Rail Monroe, NY 10950	917-626-4268	100%

SECTION C. List all owners of record of the subject property or any part thereof.

Name	Residence or Business Address	Telephone Number	Date and Manner title was acquired	Date and place where the deed or document of conveyance was recorded or filed.
Yeshia Berger	40 Catskill High Rail Monroe, NY 10950	917-626-4268	7/13/22 - Deed	7/28/22 - Recorded in Dutchess County Clerk's Office

SECTION D. Is any owner, of record or otherwise, an officer, director, stockholder, agent or employee of any person listed in Section B-C?

☐ YES

☒ NO

Name	Employer	Position

SECTION E. Is any party identified in Sections A- C an officer, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to a City Council member, planning board member, zoning board of appeals member or employee of the City of Beacon ?

☐ YES

☒ NO

If yes, list every Board, Department, Office, agency or other position with the City of Beacon with which a party has a position, unpaid or paid, or relationship and identify the agency, title, and date of hire.

Agency	Title	Date of Hire, Date Elected, or Date Appointed	Position or Nature of Relationship

SECTION F. Was any person referred to in Sections A-D known by any other name within five (5) years preceding the date of the application?

☐ YES

☒ NO

Current Name	Other Names

SECTION G. List the names and addresses of each person, business entity, partnership and corporation in the chain of title of the subject premises for the five (5) years next preceding the date of the application.

Name	Address
925 Wolcott LLC	40 Catskill High Rail, Monroe, NY 10950
LAJ Beacon LLC	369 Main Street, #493, Beacon, NY 12508

SECTION H. If the applicant is not a record owner of the subject property, describe the applicant’s interest in the subject property and the relationship the applicant has to the record owner(s) of the subject property.

N/A

SECTION I. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modification and amendments thereto, shall be submitted with the application. Any sensitive or confidential information may be redacted from the contract prior to production.

SECTION J.

1. Where the record owner or contract vendee is a corporation, the following additional information shall be submitted:

Name of the Corporation	Telephone Contact Information
Principal Business Address	Place and Date of Incorporation
Method of Incorporation	Official place where the documents and papers of incorporation were filed

2. Please provide the following information for every incorporator, officer, director and shareholder of the corporation.

Name	Residence or business address	Telephone number

3. Have any shares of the stock of the corporation or of any stockholder been pledged, mortgaged or encumbered?

☐

YES

☐

NO

If so, please list the name and address of each person having, holding, owning or claiming any such interest.

Name	Address

SECTION K. Have the present owners entered into a contract for the sale of all or any part of the subject property and, if in the affirmative, please provide a duplicate original or photocopy of the fully and complete contract of sale, including all riders, modifications and amendments thereto.

☐

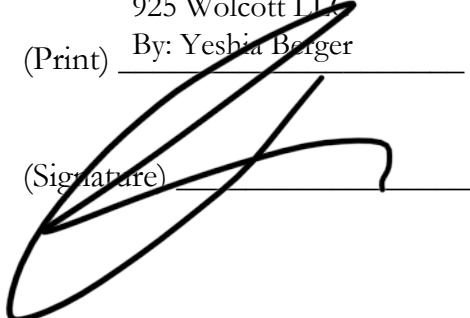
YES

☒

NO

I, Yeshia Berger being first duly sworn, according to law, deposes and says that I am (Title) Sole Member, an active and qualified member of the 925 Wolcott LLC, a business duly authorized by law to do business in the State of New York, and that the statements made herein are true, accurate, and complete.

925 Wolcott LLC
(Print) By: Yeshia Berger

(Signature) 

To the Zoning Board of the City of Beacon, NY

I am here tonight in support of the Board's July 18th decision to uphold the Beacon's city code and zoning regulations - to have the home at 925 Wolcott rebuilt as a single-family residence.

Nothing can bring back the magnificent home that was destroyed. Thankfully, this Board has the ability to move forward and preserve the integrity, safety and **character** of this special neighborhood.

The applicant, Yeshiva Berger, has requested an area or alternatively a use variance for 925 Wolcott. Given the fact that each variance has its own unique set of circumstances, the outcomes are not always the same. My hope is that the focus be on 925 Wolcott, rather than other properties previously referenced.

It is stated in Mr. Taylor's letter to this Board that "the multifamily use on the premises has existed since at least 1965." That presumed time frame is not the issue, but rather, what type of home was originally built? What is the property history? What are the present-day zoning regulations?

Property documents show that 925 Wolcott was a home built in 1906/1910 although that date could be early as 1886 as referenced by the Beacon Historical Society. The home paid homage to The Second Empire architectural style or mansard style that was generally large and built for affluent homeowners through the 1860s and 1890s.

A single-family home... Makes sense.

One of the things that our present-day zoning code focuses on is **character**. The first “area” variance standard points to the importance of preserving the neighborhood **character**. The third “use” variance standard states that there be “No alteration to the essential **character** of the neighborhood.”

Constructing a new multi-unit/SRO structure would indeed compromise this neighborhood’s essential **character**. There are a recorded 27 homes built between 1880 and 1908 on Wolcott Avenue (a street named after Charles Wolcott, whose grandfather signed the Declaration of Independence). This is noteworthy because history truly speaks to **character**.

I cannot imagine a large new multi-unit/SRO structure sitting across from the bust of George Washington and an important school crossing. (Photos)

Rightfully, I can imagine a safe, beautiful green space or a single-family home on said property that would maintain the neighborhood’s essential **character** and safety. Both options would offer Mr. Berger a reasonable rate of return, as evidenced by current real estate sales. This is Beacon...a very sought-after area of the Hudson Valley!

I respectfully note that this Board has been delegated to preserve the **character**, health, safety and welfare of the community. A community that has been besieged by the construction of large structures that have compromised those important standards. It’s time to say “enough.”

I ask that the Board continue to support the integrity of our zoning laws and deny the request for any type of variance at 925 Wolcott Avenue. George Washington may be watching. Thank you.

Charlotte Woodward

821 Wolcott Avenue, Beacon NY 12508

October 17, 2023

Sources:

Beacon Historical Society

Beacon Zoning Board Overview, Standards and Minutes

Parcel Access of Dutchess County

A Little Beacon Blog

Realtor.com

Letter from Taylor Palmer (8/29/23)

Historic Beacon, by Robert J. Murphy and Denise Doring VanBuren





From: [Erin Giunta](#)
To: [Mercedes Perez](#)
Subject: 925 Wolcott Ave
Date: Wednesday, November 8, 2023 11:06:44 AM

Nov. 8, 2023

Dear Chairperson Jordan Haug and the Members of the Zoning Board of Appeals,

I will be unable to attend the Nov. 21 ZBA meeting with the 925 Wolcott Ave on the agenda, but I am writing to echo my support of the content of the letters previously submitted for the 10/17/23 meeting from Meg & Steven Oakes and Brittany Mustakas which eloquently and clearly laid out the multitude of reasons why an area/use variance should not be granted to 925 Wolcott LLC.

Thank you,

Erin Giunta
9 Knevels Ave, Beacon, NY 12508

From: [Laura Nenno](#)
To: [Mercedes Perez](#)
Subject: Appeal of Interpretation/Variance Application
Date: Tuesday, November 14, 2023 12:34:52 PM

Hi Mercedes,

I live on Teller Avenue and just wanted to provide my feedback regarding 925 Wolcott Avenue. I am very much against the request to build another SRO building. While it is unfortunate the previous residence was burned down, I feel the developer should abide by the Building Inspector's determination and move forward with building a single family home. That intersection is dangerous enough, we do not need the added stress of construction, from both a traffic and noise perspective. The lot is zoned for a single family home, and the rules are the rules, we do not need another SRO residence at that location. I am already uncomfortable with the SRO across the street, as a few months ago there were gunshots fired directly into the home, and there are multiple instances where ambulances are called to the residence. We have a lot of small children in this neighborhood, and hope that the city listens to what WE are asking, which is to not let these developers try to skirt the rules for their own financial gain.

Thank you very much for your time.

Sincerely,
Laura Nenno

From: [LAURA ORNELLA](#)
To: [Mercedes Perez](#)
Subject: Variances for 925 Wolcott
Date: Tuesday, November 14, 2023 2:42:25 PM

Hi there,

I saw the post on Facebook about 925 Wolcott seeking out new property variances. I, as a resident of Beacon, oppose these variances.

Thank you,

--

Laura Ornella

From: [Jennifer Rutledge](#)
To: [Mercedes Perez](#)
Subject: Opposed to Variances for 925 Wolcott
Date: Tuesday, November 14, 2023 4:55:40 PM

Hello,

I live at 130 S. Chestnut St, two blocks from 925 Wolcott. I bought into the neighborhood 8 years ago and put up with the SRO that was there, including the drunk men who often walked past my property during the day. However, now that the SRO has burned down I believe that that space should be returned to it's original purpose which was single family housing.

As such, I I am extremely opposed to a variance for the property and strongly believe it should remain as a single family use, rather than allowing a large multi-unit apartment building there. This is largely due to the fact that that intersection, which my family negotiates daily, would be even more dangerous with an apartment building than it already is. Further, adding that population density to our neighborhood of small family homes is ridiculous.

Thank you,

Jennifer Rutledge
130 S. Chestnut St.
Beacon, NY 12508

From: [Katrine Bjørnson Strøyberg](#)
To: [Mercedes Perez](#)
Subject: 925 Wolcott Avenue
Date: Tuesday, November 14, 2023 6:23:19 PM

I oppose the variances for 925 Wolcott Avenue

Best

Katrine Stroyberg

Sent from Gmail Mobile

From: [Janira Quinones](#)
To: [Mercedes Perez](#)
Subject: Opposition To Variance For 925 Wolcott Ave.
Date: Tuesday, November 14, 2023 9:45:17 PM

Hello:

As a 40+ year resident of the City of Beacon and a neighbor in this area of Wolcott Ave. I'd like to express my concern and opposition to the variance in review for this property at 925 Wolcott Ave. Consider keeping this property as a single family home.

Please take the voices of the residents into account as you make this decision, it truly affects the quality of life in our neighborhoods.

Thank you for your consideration.

Janira Quiñones
21 Dennings Avenue

From: [Bees In The Barn string band](#)
To: [Mercedes Perez](#)
Subject: 925 Wolcott Ave variance
Date: Tuesday, November 14, 2023 10:42:16 PM

Hello-

I live at 98 Knevels Ave in Beacon.

I am writing to oppose the zoning variance for 925 Wolcott Ave. Any new construction should keep with the character of the neighborhood. I oppose a variance that would allow for 3 stories and/or multiple apartment units.

Thank you.

August Eriksmoen

98 Knevels Ave

Beacon NY

augusteriksmoen.com

From: [Miranda O'Brien](#)
To: [Mercedes Perez](#)
Subject: Oppose the variances for 925 Wolcott Ave
Date: Tuesday, November 14, 2023 7:44:37 PM

To whom it may concern

I oppose the variances for 925 Wolcott Avenue. I currently reside at 30 Wodenethe drive, and have children that attend both Sargent and Rombout,. I have huge concerns of the safety of crossing 9d there now, so this building would make that worse.

I there a way to put in a recommendation for a traffic light crossing on that corner too. There are too many children that cross there, and so many accidents.

Thanks

--

Best,
Miranda



Miranda O'Brien/Kimberg

Partner / Gallery Queen

Clutter Studios, LLC

p: 212-255-2505 **m:** 917-374-9560

a: 163 Main Street, Beacon, NY, 12508

w: www.cluttermagazine.com



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November 16th 2023

Dear Chairperson Jordan Haug and the Members of the Zoning Board of Appeals,

I have filed a formal complaint for all the building permits granted to these applicants for the conversion of SRO to multifamily which would require ZBA involvement. These should all be addressed independent of the outcome of this specific application. I would like to relay two additional points.

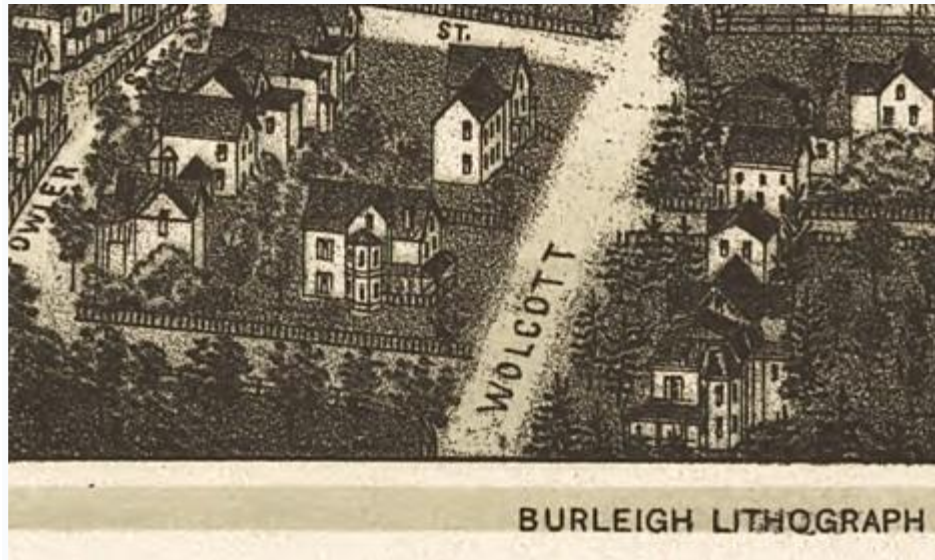
1. The Oct 13 Determination from the Building Inspector contains false information. This information is important, and should be amended.

The determination from the Building Inspector claims that this previously standing building was built in 1965 as a boarding house and was a multifamily building.

1. The building was much older. A submission from the applicant contained the date of construction as 1906. The fact is it is unknown when exactly this house was built, however it is fact that this house was built before 1886. The link below provides a map from 1886 with this home existing identified easily by its position and architecture.

<https://www.loc.gov/resource/g3804b.pm005850/?r=0.34,0.271,0.705,0.434,0>





Zooming in:

This is the same house across from the Teller and Wolcott intersection (bottom right) that burned down. It is clear from the architecture; the octagonal turret, the front porch, the placement of windows, and the square roof.



Furthermore, anyone could collect evidence of its older date of construction at this moment by simply examining the bricks in the pile of rubble that sits on this property.

2. It is not a fact that this was always a boarding house since its construction. It is known that this building was the residence of a large family. It was home to the well-known Coldwell family; John and Elizabeth Coldwell and their ten children, one of them being Thomas Coldwell. Thomas Coldwell was a wealthy businessman who manufactured lawn mowers in Newburgh which operating in the late 1800s. Again, if it was a boarding house, a boarding house is defined by the City of Beacon as:
“a dwelling occupied by one family with no more than two boarders, roomers or lodgers in the same household, who are lodged with or without meals, and in which there are provided such services as are incidental to its use as a temporary residence for part of the occupants.” (City Code)

If this definition was not included in the City Code to define ***The BoardingHouse*** then what did it apply to? It is likely that this was the true use when it was grandfathered in (not built) in 1965. Regardless, it has been allowed to vastly change since then from boarding house to “Boardinghouse”- SRO with 16 rooms for tenants, which is a violation of the Zoning Code and has greatly impacted this neighborhood.

3. This was **never** a multifamily building. To avoid redundancy in again providing all of the city’s own definitions, a brief definition of multifamily is a three or more unit building with each unit providing all amenities to support a family (kitchens and bathrooms). This building was a shared space house with 2 kitchens and 4 full bathrooms. At most it may have been able to have been designed as a duplex if there were two separated units, however that would require less unrelated people living together in them. It was built as a single family home that was turned into a boarding house and eventually an SRO building, as it was more accurately labeled by previous determinations/letters from the Building Inspector to the applicant.

The ZBA should maintain higher standards for the determinations and permits that come from this department to provide factual information.

2. If the Zoning Board of Appeals is entertaining the idea of approving variances, it is important to know what exactly they want to build.

There is a lack of clarity in the recent submission from Mr. Palmer, including that the proposed 9 unit building will have 1978 sq ft/unit, whereas the financial analysis includes that units will average ~303 sq ft and the total building will not exceed 3,670 sq ft. Perhaps this was mistakenly written, however the point is the application should include specifically if this new building will be SRO **or** multifamily design and use, and include specific plans for the new building.

Thank you
Brittany Mustakas

From: [Avril Schofield](#)
To: [Mercedes Perez](#)
Subject: re opposition of variances for 925 Woolcot
Date: Thursday, November 16, 2023 4:15:34 PM

Dear planning board,

As a resident of Beacon I would like to object to the proposition of building a 3 story apartment building at the corner of Woolcot and Sargent Avenue. It is a blind bend on a hill close to a school which already does not have a sidewalk for safety (Sargent Ave). This is a terrible idea and the location does not serve well for multiple cars to be trying to get in and out of their presumed parking lot on such a dangerous corner. I am sure you are well aware of the multiple accidents which have already occurred at that precise spot.

I hope you take the community's concerns very seriously and deny the requested variances. Thank you for your time and consideration,

Sincerely
Avril and Kevin Schofield

25 Creek Drive,
#401
Beacon,
NY

From: [LA Martin](#)
To: [Amanda Caputo](#); [Mercedes Perez](#)
Subject: 925 Wolcott Avenue Opposition
Date: Thursday, November 16, 2023 9:46:08 PM

Hello, I am writing to express my opposition, again, to the variances as they relate to the 925 Wolcott Avenue LLC proposal in the City of Beacon.

That intersection is already “crowded” on a very busy Rt. 9D and it doesn’t need a 3 story building. I reside off of Rt. 9D and see the traffic and people constantly on this 2 lane road which is over-burdened.

Let’s do the right thing here please.

Thank you.

LuAnn Martin

Sent from my iPhone

From: LA Martin <lumartin@yahoo.com>
Date: June 14, 2023 at 1:48:07 PM EDT
To: acaputo@beaconny.gov
Subject: 925 Wolcott Avenue Opposition

Hello, I am writing to advise of my opposition to the new proposal and/or developer’s appeal regarding the property located at 925 Wolcott Avenue in Beacon.

L. Martin

Sent from my iPhone

From: charwoodward@optonline.net
To: [Mercedes Perez](#)
Subject: 925 Wolcott - Nov 21 meeting
Date: Sunday, November 19, 2023 9:51:11 AM

Dear Mercedes,

Below is my letter for submission to the Board prior to the Nov 21 meeting. (Sorry it is not an attachment, my new computer is giving me trouble). I've also included 3 photos as attachments. Thank you.

Charlotte Woodward

November 18, 2023

Zoning Board of Appeals, City of Beacon

1 Municipal Plaza,

Beacon, New York 12508

Dear Chairman Haug and the Members of the Zoning Board of Appeals:

I am writing in support of this Zoning Board's lawful upholding of Beacon's city code and zoning regulations requiring 925 Wolcott to be rebuilt as a single-family home....thus denying any type of variance.

The applicant, Yeshia Berger of Monroe, NY has requested variances that do not adhere to Beacon's Area and Use Standards. His proposed construction of an SRO or multifamily building in this school neighborhood are two different scenarios. Upon reading Mr. Taylor's letter of October 31st, one would conclude that the focus of the applicant is the large (multi-family) apartment building, increasing non-conformity. The proposed dimensions are startling and quite substantial (**Area Variance Standard 3**):

- * Three stories (plus an additional ½ story for HVAC) - up from 2 ½ stories.
- * 1978.4 sq ft per apartment - up from 258 sq ft per room.
- * 9 large apartments - compared to 16 single rooms
- * 17,805.6 sq ft. building - compared to a 4,137 sq ft home
- * An additional back porch
- * 1458 sq ft for nine parking spaces (Where else would owners park?)

We all know what a new three-story apartment building looks like. Just take a peek at Tioronda along the creek. (photo) An imposing structure such as that would certainly change the neighborhood's character visually. The decrease in the amount of sunlight would be a detriment to nearby homes. (Area Variance Standard 1) The additional traffic would have an adverse effect on this already busy school crossing area of Wolcott Avenue. (photo) The safety of the children is very concerning. (Use Variance Standard 4)

The proposed apartment building would not only overwhelm the area but would permanently saddle it with an "out of place" structure, negatively impacting property values. This would alter the essential character of this immediate neighborhood comprised of single- family homes, Sargent school, a beautiful soccer field and playground. (Use Variance Standard 3)

Property documents show that here are a recorded 27 homes built between 1880 and 1908 on Wolcott Avenue (a street named after Charles Wolcott, whose grandfather signed the Declaration of Independence). This is noteworthy because history truly speaks to the character of a neighborhood. As a matter of fact, the 4,137 square foot home's original street address was Wicapee (over a century ago) which was then changed to 389 Wolcott to its present address of 925 Wolcott. (photo) "The property cards are sometimes quite old and can refer to old addresses, though the parcel ID is correct." (Foil 164-2023)

To quote Mr. Taylor in his August 29th letter, "The goal here is to reconstruct the building that was part of the community character for nearly a century." A single-

family home. Yes, let's do that! (Zone R1-10)

With regard to “reasonable return” for Mr. Berger, the term “reasonable” is highly subjective. (Use Variance Standard 1) Someone who had the resources to purchase three properties in Beacon on July 13, 2022 for the sum of 2.1 million dollars (Dutchess County Parcel Access 850183, 944642, 922633) might view “reasonable return” differently than other residents of Beacon.

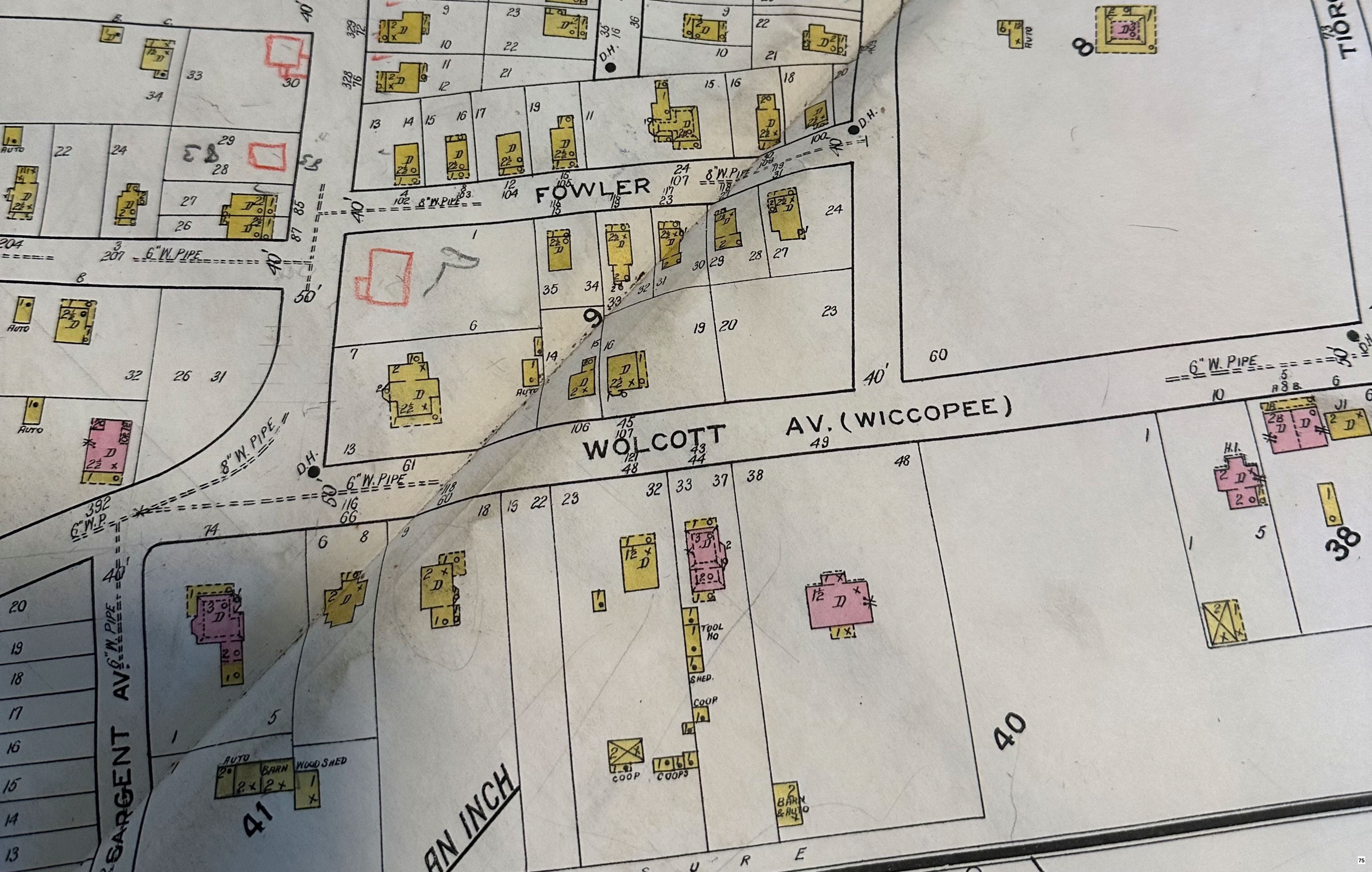
Building and selling a single-family home or selling the .41 acre of prime land would provide a reasonable return and an alternative option for the applicant. (Area Variance Standard 2) Exploring these alternatives would solve Mr. Berger's self-created “financial” hardship. (Use Variance Standard 4)

This is Beacon! The current real estate values are well documented.

As we look to support the preservation of Beacon's character, health, safety and welfare, I sincerely request that this Board adhere to the integrity of our zoning laws and deny a request for any type of variance at 925 Wolcott Avenue. Thank you for your consideration.

Respectfully submitted,

Charlotte Woodward
821 Wolcott Avenue
Beacon, New York 12508







From: [Diana Maria Bank](#)
To: [Mercedes Perez](#)
Subject: Variances for 925 Wolcott Ave
Date: Monday, November 20, 2023 10:07:07 AM

Dear Mercedes Perez,

I am writing on behalf of my husband Jeffrey Bank and myself. We live at 325 Tioronda Avenue, we are aware of an application for variances submitted by 925 Wolcott LLC, 925 Wolcott Avenue. We are opposed to all the variances.

Thank you,

--

Diana M Bank

From: eveof@aol.com
To: [Mercedes Perez](#)
Subject: variance
Date: Monday, November 20, 2023 2:54:08 PM

I would like to inform you that I, Denise Eve, residing at 79 Sargent Avenue in Beacon, opposes the variances that are being sought for 925 Wolcott Avenue in Beacon.

We are a quiet residential neighborhood with families and children and this would be a huge detriment to our neighborhood. That intersection is already dangerous, the site of many accidents, and has school children crossing every day and residents and visitors crossing to go into town as well.

There really should be a stop sign or some other safety device for the intersection and by adding a very large number of apartments will only make the area more dangerous.

Thank you.

Denise Eve



445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyyfeder.com

Taylor M. Palmer, Esq.
tpalmer@cuddyyfeder.com

November 20, 2023

VIA ELECTRONIC MAIL

Chairman Jordan Haug
and Members of the Zoning Board of Appeals
City of Beacon
1 Municipal Plaza
Beacon, New York 12508

Re: 925 Wolcott LLC - Request for Adjournment
Area Variance Request, and in the Alternative, Use Variance Request
Premises: 925 Wolcott Avenue, Beacon, New York (Tax Parcel ID: 5954-44-922633)

Dear Chairman Haug and Members of the Zoning Board of Appeals:

On behalf of 925 Wolcott LLC (the "Applicant"), the owner of the above-referenced Premises, we respectfully request that the above-referenced matter be adjourned from the ZBA's November 21, 2023 regular meeting Agenda to the Board's December 19, 2023 regular meeting Agenda for continued review.

The Applicant is requesting this adjournment because the City is still in the process of retaining a consultant to review the Applicant's economic analysis. The City only advised today, November 20th, that the City finalized an agreement with a consultant to review this economic analysis, and the Applicant has been further advised that the City anticipates comments from City's consultant on the economic analysis within 2-3 weeks from the receipt of any requested documentation from the Applicant. As of the date of this letter, the Applicant has not been requested to submit any additional information. Notwithstanding, in an effort to assist the Board's consultant in their review of the Applicant's materials in advance of the ZBA's December 19th meeting Agenda, enclosed at **Exhibit A**, please find additional copies of its September 26, 2023, September 19, 2023, August 28, 2023, and May 18, 2023 Memoranda prepared by the Applicant's financial consultant, Hudson Property Advisors, LLC.

Thank you in advance for your consideration. If you or the City's consultant have any questions regarding the foregoing, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'TP', written over a horizontal line.

Taylor M. Palmer
Enclosures

cc: Keane & Beane, P.C. – ZBA Attorney
Hudson Property Advisors, LLC
925 Wolcott LLC

Exhibit A

HUDSON PROPERTY ADVISORS, LLC

★ ★ ★ ★ ★
10 SOUTH MOGER AVENUE, MOUNT KISCO, NEW YORK 10549
WWW.HUDSONPROPERTYADVISORS.COM
TEL. 914-244-3400

M E M O

To: Taylor M. Palmer, Esq., Cuddy & Feder LLP and City of Beacon Zoning Board of Appeals

From: Jonathan Bernz, MAI, Hudson Property Advisors, LLC (“HPA”)

Date: September 26, 2023

Re: 925 Wolcott LLC (the “Applicant”)
925 Wolcott Avenue, City of Beacon, Dutchess County, New York (“Project Site”)
(HPA File No. 2023.04019)

This Memorandum is respectfully submitted in response to comments from the City of Beacon Zoning Board of Appeals (“ZBA”) at its September 19, 2023 Public Hearing regarding the above-referenced matter. This Memorandum has been prepared at the request of the “Applicant” (925 Wolcott, LLC) and is a supplement to HPA’s Report dated May 18, 2023 and Memoranda dated August 28, 2023 and September 19, 2023.

During the September 19, 2023 ZBA public hearing, the ZBA requested certain information from the Applicant. Applicant provided the following information to HPA for analysis:

1. Purchase price: \$650,000
2. Clean Up Costs: Approximately: \$40,000
3. Taxes/Insurance Premiums/Mortgage Payments: Approximately \$62,000
4. Acquisition Loan: \$585,000
5. Construction Loan: \$485,000
6. Insurance payout: \$977,400 (following 10% public adjuster fee from initial payout of \$1,086,000)
7. Monthly Income before work: \$20,333
8. Monthly Income for 9 units: \$17,550
9. Appraised value: \$1,700,000 (May 2022 Appraisal Date)
10. Taxable Value of Land and Improvements: \$650,000 (July 1, 2022 valuation date stated in City’s Assessment Roll)
11. Taxable Value of Land: \$150,000 (July 1, 2022 valuation date stated in City’s Assessment Roll)

12. The Property was insured for \$ 1,086,000, which is roughly the amount of the acquisition loan (\$585,000) plus the amount of the construction loan (\$485,000), the “Loans.”

Notably, Items 1 and 2 above were previously incorporated in HPA’s September 19, 2023 Memorandum. The remainder of the items (including insurance payouts) are not included in a financial feasibility analysis of a proposed use of land, as said feasibility analysis determines the rent or sale value necessary to justify new construction. Applicant reported that the insurance payout of \$977,400 was \$92,600 less than the total amount of the loans (\$1,070,000) which the payout was used for.

Conclusion

Collectively, as detailed in our Zoning Feasibility Analysis submissions to this Board to date, our analysis confirms that the Applicant cannot realize a reasonable return by using the Project Site for fewer than nine (9) units, which represents the minimum relief necessary to achieve a viable return.

###

HUDSON PROPERTY ADVISORS, LLC

★ ★ ★ ★ ★
10 SOUTH MOGER AVENUE, MOUNT KISCO, NEW YORK 10549
WWW.HUDSONPROPERTYADVISORS.COM
TEL. 914-244-3400

M E M O

To: Taylor M. Palmer, Esq., Cuddy & Feder LLP and City of Beacon Zoning Board of Appeals

From: J. Bernz, MAI, Hudson Property Advisors, LLC (“HPA”)

Date: September 19, 2023

Re: 925 Wolcott LLC (the “Applicant”)
925 Wolcott Avenue, City of Beacon, Dutchess County, New York (“Project Site”)
(HPA File No. 2023.04019)

This memorandum is respectfully submitted in response to comments from the City of Beacon Zoning Board of Appeals (“ZBA”) at its August 15, 2023 public hearing regarding the above-referenced matter. This Memorandum has been prepared at the request of Applicant’s Counsel and is a supplement HPA’s May 18, 2023 Report and August 28, 2023 Memorandum.

The purpose of this Memorandum is to demonstrate, through conventional financial analysis and an evaluation of a variety of Alternatives, whether the Applicant can realize a reasonable return by using the Project Site for multi-family / SRO residential use. The following analysis confirms that the Applicant’s nine (9) unit proposal is the minimum relief necessary to achieve a viable return.

For the ZBA’s further consideration, HPA analyzed the following Alternatives:

	Description	GBA
Proposed Action	Three-story building with nine (9) rental apartments	3,670
Alt. 1	Three-story building with eight (8) rental apartments	3,670
Alt. 1a	Three-story smaller size building with eight (8) rental apartments	3,262
Alt. 2	Three-story same size building with seven (7) rental apartments	3,670
Alt. 2a	Three-story smaller size building with seven (7) rental apartments	2,854
Alt. 3	Three-story same size building with six (6) rental apartments	3,670
Alt. 3a	Three-story smaller size building with six (6) rental apartments	2,447
Alt. 4	Two-story same size building with four (4) rental apartments	3,670
Alt. 4a	Two-story smaller size building with four (4) rental apartments	1,631

The analysis contained herein demonstrates the feasibility viability that would be provided to the Project Site if developed with the uses summarized in the above chart. A feasibility analysis can be quantitative or qualitative, or a combination of both and the methodology used to demonstrate economic viability can vary depending on a variety of factors ranging from physical, functional and economic and market-related

issues. A quantitative method of determining economic viability is to test each of the individual uses in terms of their feasibility rent; i.e., to compare a calculated feasibility rent to market rent to determine whether a particular use is financially feasible. For example, if market rent level for a particular use is above feasibility rent then that use would be expected to be financially feasible/economically viable. Conversely, if market rent level for a particular use is below feasibility rent, then that use would not be expected to be financially feasible/economically viable as it would not produce sufficient return to the property.

Determining financial feasibility using a quantitative model involves the following steps:

1. Obtain a Construction Cost Estimate. The owner provided us with construction cost based on \$275.00 per sq. ft. for construction hard costs which was used in each of the alternatives. In addition to construction hard costs, an allocation for construction soft costs is also necessary. Construction soft costs typically include site planning, engineering, design, architectural and other professional input. An allocation of 15% of construction hard costs is applied under each alternative.
2. Add land acquisition costs (the acquisition cost of the site was \$650,000 and the cost of demolition and removal of the improvements following a fire was \$38,000 for a total cost of \$688,000) to total construction costs to arrive at Total Project Cost.
3. Derivation of an appropriate Overall Capitalization Rate ("OAR," "R" or " R_O ") applicable to the specific use being studied. Capitalization is the process of converting income into a present value (market value) estimate. A capitalization rate is "A ratio of one year's net operating income provided by an asset to the value of the asset; used to convert income into value in the application of the income capitalization approach."¹ Capitalization rates vary according to property use and there are several methods of determining appropriate capitalization rates. The most common methods include (1) investor surveys, (2) calculation of an OAR from other market indices and (3) abstraction of a capitalization rate from market sales/transactional data.

Among the most prominent investor surveys is the PriceWaterhouseCoopers Real Estate Investor Survey. This survey, however, is geared toward institutional grade investments (substantially larger asset size) and is not necessarily indicative of the asset class analyzed herein. It is used as a general guide only.

With respect to derivation of a capitalization rate using other market indices, the most common technique is known as the "band of investment" technique. This technique assumes that most properties are purchased with debt and equity capital; therefore, the overall capitalization rate must satisfy the market return requirements of both investment positions. The lender/mortgagee must anticipate a rate of return that is appropriate for the investment's perceived risk in order to make the loan; the loan principal is typically repaid through periodic amortization payments. The equity investor/mortgagor must also anticipate a rate of return that is commensurate with the investment's perceived risk or they opt for an alternative investment. "Band of Investment" is defined as "[a] technique in which the capitalization rates attributable to components of an investment are weighted and combined to derive a weighted-average rate attributable to the

¹ Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. "capitalization rate", (Chicago: Appraisal Institute, 2022), PDF e-book.

total investment (i.e., debt and equity, land and improvements).”² This technique involves application of typical loan terms (mortgage rates, loan-to-value ratios, term) for the particular property type being analyzed. It also requires application of an appropriate equity yield rate for the particular property type being analyzed. An “equity yield rate” is “The rate of return on the equity capital invested.”³ As real estate competes with investments in the capital markets, other rates, including bond and Treasury bill yields, are frequently considered. Characteristics that affect required rates of return for real estate versus alternative investments include risk, liquidity, management, and the possibility of value appreciation or depreciation during the holding period. Therefore, these investment vehicles are frequently considered superior to a real estate investment because they are less risky, and more liquid.

Abstraction of capitalization rates from the market involves research and analysis of an investment property transaction (or a group of investment property transactions) where the selling price is confirmed and net income (NOI) at the time of sale can be obtained. The NOI is compared to the sale price to derive an overall capitalization rate. Disadvantages of this method include (1) the scarcity of available data (i.e., the limited number of transactions such that the sample size may be statistically insignificant) and (2), the difficulty in obtaining actual net operating income at the time of sale as it is not information that is publicly available.

In the instant case, rates used herein are consistent with our understanding of this general market area for this property type (multi-family residential) and have been corroborated by the owner’s expectation.

4. Once an appropriate OAR is derived, it is applied to the construction cost estimate to arrive at Net Operating Income (NOI) that could potentially be generated under each Alternative.
5. An estimate of Operating Expenses (OPEX) ratio for the specific uses being studied is also necessary. Given the property type, the fact that it would represent new construction, with individual tenants responsible for heat and utilities, a ratio of 30% is reasonable, appropriate and consistently applied under each of the Alternatives.
6. The OPEX is added to the NOI to arrive at Effective Gross income (EGI) that could potentially be generated under each Alternative.
7. An estimate of vacancy/credit loss is also required. In the economic life of a rental property, tenant turnover causes temporary vacancies. In fact, very few rental properties remain fully occupied for extended time periods. An allowance for vacancy and collection loss is therefore necessary to include primarily to reflect the rent loss attributable to these periods of vacancy and tenant turnover. Vacancy allowance of 5.0% is added to EGI to arrive at Potential Gross Income (PGI) that the use could potentially produce, otherwise known as “Feasibility Rent.” This figure is shown on an annual basis.
8. An estimate of market rent for each of the Alternative uses is necessary. “Market Rent” is defined as “The most probable rent that a property should bring in a competitive and open market under

² Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. “band of investment”, (Chicago: Appraisal Institute, 2022), PDF e-book.

³ Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. “equity yield rate”, (Chicago: Appraisal Institute, 2022), PDF e-book.

all conditions requisite to a fair lease transaction, the lessee and lessor each acting prudently and knowledgeably, and assuming the rent is not affected by undue stimulus. Implicit in this definition is the execution of a lease as of a specified date under conditions whereby:

- Lessee and lessor are typically motivated;
- Both parties are well informed or well advised, and acting in what they consider their best interests;
- Payment is made in terms of cash or in terms of financial arrangements comparable thereto; and
- The rent reflects specified terms and conditions typically found in that market, such as permitted uses, use restrictions, expense obligations, duration, concessions, rental adjustments and revaluations, renewal and purchase options, frequency of payments (annual, monthly, etc.), and tenant improvements (TIs).”⁴

The owner (“Applicant”) provided estimates of anticipated achievable market rent for the various Alternatives studied. These estimates are adopted within the analysis. It is noted that for Alternatives 1, 2, 3 and 4, the analysis utilizes the same size building as the proposed action (3,670 sq. ft.) - however, since the building size remains constant, the average unit size increases and the unit rent also increases). It is also noted that for Alternatives 1a, 2a, 3a and 4a, the building size is reduced correspondingly (proportionately, based on reduced number of units). Under these Alternatives, the average unit size (and the unit rent) remains constant.

9. Feasibility Rent is compared to market rent under each alternative. If market rent level for a particular use is above feasibility rent, then that use would be expected to be financially feasible/economically viable. Conversely, if market rent level for a particular use is below feasibility rent, then that use would not be expected to be financially feasible/economically viable. However, although a particular Alternative may result in a positive return, it may not result in a sufficient return. In order to test the return allocable to the Proposed Action and the various Alternatives, the Rent Differential is compared to Feasibility Rent on a percentage basis.

The chart on the following page demonstrates that the Proposed Action is financially feasible. It also shows that all of the other Alternatives are not financially feasible.

⁴ The Dictionary of Real Estate Appraisal, 7th Edition, (Chicago, IL, Appraisal Institute: 2022), “market rent,” PDF e-book, p. 117.

Zoning Feasibility Analysis

FEASIBILITY RENT CALCULATIONS	Proposed Action	Alt. 1	Alt. 1a	Alt. 2	Alt. 2a	Alt. 3	Alt. 3a	Alt. 4	Alt. 4a
Program Description	Three-story building with nine (9) rental apartments	Three-story same size building with eight (8) rental apartments	Three-story smaller size building with eight (8) rental apartments	Three-story same size building with seven (7) rental apartments	Three-story smaller size building with seven (7) rental apartments	Three-story same size building with six (6) rental apartments	Three-story smaller size building with six (6) rental apartments	Two-story same size building with four (4) rental apartments	Two-story smaller size building with four (4) rental apartments
No. Stories	3	3	3	3	3	3	3	2	2
Potential GBA (SF)	3,670	3,670	3,262	3,670	2,854	3,670	2,447	3,670	1,631
No. Res. Units	9	8	8	7	7	6	6	4	4
Const. Hard Cost/SF	\$275	\$275	\$275	\$275	\$275	\$275	\$275	\$275	\$275
Total Hard Construction Cost, Rd.	\$1,009,250	\$1,009,250	\$897,111	\$1,009,250	\$784,972	\$1,009,250	\$672,833	\$1,009,250	\$448,556
Soft Costs (%)	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%
Soft Costs	\$151,388	\$151,388	\$134,567	\$151,388	\$117,746	\$151,388	\$100,925	\$151,388	\$67,283
Total Construction Costs	\$1,160,638	\$1,160,638	\$1,031,678	\$1,160,638	\$902,718	\$1,160,638	\$773,758	\$1,160,638	\$515,839
Land Acquisition	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000
Total Project Cost (incl. land)	\$1,848,638	\$1,848,638	\$1,719,678	\$1,848,638	\$1,590,718	\$1,848,638	\$1,461,758	\$1,848,638	\$1,203,839
Total Project Cost, Rd.	\$1,850,000	\$1,850,000	\$1,720,000	\$1,850,000	\$1,590,000	\$1,850,000	\$1,460,000	\$1,850,000	\$1,200,000
Overall Capitalization Rate (OAR)	6.75%	6.75%	6.75%	6.75%	6.75%	6.75%	6.75%	6.75%	6.75%
Net Operating Income (NOI) Required	\$124,875	\$124,875	\$116,100	\$124,875	\$107,325	\$124,875	\$98,550	\$124,875	\$81,000
Operating Expense Ratio (Typ.)	30%	30%	30%	30%	30%	30%	30%	30%	30%
Operating Expenses (Expense Ratio x EGI)	\$53,518	\$53,518	\$49,757	\$53,518	\$45,996	\$53,518	\$42,236	\$53,518	\$34,714
Effective Gross Income (EGI = NOI + Expenses)	\$178,393	\$178,393	\$165,857	\$178,393	\$153,321	\$178,393	\$140,786	\$178,393	\$115,714
Vacancy Rate	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
Feasibility Rent (Required Potential Gross Income)	\$187,782	\$187,782	\$174,586	\$187,782	\$161,391	\$187,782	\$148,195	\$187,782	\$121,805
Feasibility Rent, Rd.	\$187,800	\$187,800	\$174,600	\$187,800	\$161,400	\$187,800	\$148,200	\$187,800	\$121,800
Loss Factor	26%	26%	26%	26%	26%	26%	26%	26%	26%
Total Rentable Sq. Ft.	2,728	2,716	2,414	2,716	2,112	2,716	1,811	2,716	1,207
Average Unit Size(sq. ft.)	303	339	302	388	302	453	302	679	302
Market Rent/Sq. Ft. (owner)									
Average Unit Rent/mo. (owner)	\$1,950	\$2,000	\$1,950	\$2,150	\$1,950	\$2,250	\$1,950	\$2,550	\$1,950
Potential Gross Income/Mo.	\$17,550	\$16,000	\$15,600	\$15,050	\$13,650	\$13,500	\$11,700	\$10,200	\$7,800
Total Achievable Income (annual)	\$210,600	\$192,000	\$187,200	\$180,600	\$163,800	\$162,000	\$140,400	\$122,400	\$93,600
Total Achievable Rent, Rd.	\$211,000	\$192,000	\$187,000	\$181,000	\$164,000	\$162,000	\$140,000	\$122,000	\$94,000
Rent Differential									
Market Rent less Feasibility Rent	\$23,200	\$4,200	\$12,400	-\$6,800	\$2,600	-\$25,800	-\$8,200	-\$65,800	-\$27,800
Use Feasibility	Feasible	Feasible	Feasible	Not Feasible	Feasible	Not Feasible	Not Feasible	Not Feasible	Not Feasible
Return (Rent Differential/Feasibility Rent)	12.4%	2.2%	7.1%	-3.6%	1.6%	-13.7%	-5.5%	-35.0%	-22.8%

Notes:

1. Various assumptions provided by Client
2. Feasibility Rent is "the rent necessary to justify new construction."
2. Methodology used above taken from Appraisal Institute (Feasibility Rent)

Conclusion

The above Zoning Feasibility Analysis financially demonstrates that the Applicant cannot realize a reasonable return by using the Project Site for fewer than nine (9) residential apartments (Proposed Action). The preceding analysis demonstrates the Applicant's inability to realize a reasonable return if developed with fewer than nine (9) units. The Proposed Action results in a 12.4% positive return which is considered viable. Although Alternatives 1, 1a and 2a also result in positive returns, they are not viable as they are insufficient to warrant development (2.2%, 7.1% and 1.6% respectively). All of the other Alternatives are not feasible as they result in negative returns.

In summary, the analysis confirms that the Applicant's nine (9) unit proposal is the minimum relief necessary to achieve a viable return.

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M E M O

To: Maximillian R. Mahalek, Esq., Cuddy & Feder LLP

From: J. Bernz, MAI, Hudson Property Advisors, LLC

Date: August 28, 2023

Re: 925 Wolcott LLC
925 Wolcott Avenue, City of Beacon, Dutchess County, New York (HPA File No. 2023.04019)

This memorandum has been prepared at the request of the Applicant's Counsel as a supplement to the May 18, 2023 report prepared by this office. It has been prepared in response to comments from the City of Beacon Zoning Board of Appeals at its August 15, 2023 public hearing regarding the above-referenced matter.

The purpose of this memorandum is to demonstrate, through conventional financial analysis, whether the Applicant can realize a reasonable return by using the Project Site for single-family residential purposes as permitted in the City of Beacon's "R1-10 One-Family Residence" ("R1-10 District") zoning district.

The Applicant acquired the property in July 2022; the purchase price was \$650,000. As reported in the May 18, 2023 report prepared by this office, at the time of sale, the Project Site was improved with a 16-unit structure that was destroyed by fire January 3, 2023. If the property is required to be used as the site of a single-family residence, it would put the Applicant in the position of effectively acquiring a single-family lot for \$650,000 which is not only incongruous with the current market but would not allow for a reasonable return to the land. In fact, it would result in a loss.

On the following page is a dollars and cents analysis (Profitability/Financial Feasibility Analysis) demonstrating the financial loss that would be incurred if the site were to be developed with single-family residence use. In order to determine profitability (or loss), total development costs (including hard and soft construction costs and site acquisition) for low, high, average and median house sizes (detailed in the May 18, 2023 report prepared by this office) are calculated. These total development costs are then compared to current low, high, average and median house sale prices (detailed in the May 18, 2023 report prepared by this office).

The Applicant indicated that the hard construction costs for a detached single-family residence (actual structure with foundation and other items) could reach close to \$300 per sq. ft. Though the Applicant

indicated that hard construction cost “could reach” \$300 per sq. ft., a more conservative figure (\$275 per sq. ft.) is used in the analysis for demonstrative purposes.

In addition to the fact that all four scenarios (low, high, average and median) demonstrate losses (negative return), ranging from -13.8% to -73.8%, there are additional factors that warrant consideration.

First, if construction costs do reach \$300 per sq. ft., an even larger loss would be incurred compared to the more conservative figure used. This is true under all four scenarios (low, high, average and median).

Second, the Profitability/Financial Feasibility Analysis includes a category for developer profit which is typically required. Routinely, a developer would only take on a project such as this if sufficient profit can be realized. In the following analysis (Schedule 1), only a relatively modest figure is included for this category. Even if developer profit were to be excluded completely from the analysis, each of the four scenarios would nevertheless continue to demonstrate a financial loss ranging from -6.8% to -72.3% (see Schedule 2).

Third, since the time of acquisition, the Applicant has undergone carrying costs (which have not been factored into the Profitability/Financial Feasibility Analysis). If these additional carrying costs were to be included, the analysis would demonstrate an even larger net loss.

Schedule 1 (Including Developer Profit)

<u>Profitability/Financial Feasibility Analysis</u>				
Acquisition Cost of Site	\$650,000	\$650,000	\$650,000	\$650,000
	Survey Low	Survey High	Survey Average	Survey Median
Assumed House Size (sq. ft.)	2,000	4,807	2,776	2,470
<u>Construction Costs (New single-family house)</u>				
Construction hard costs/sq. ft.	\$275	\$275	\$275	\$275
Construction hard costs	\$550,000	\$1,321,925	\$763,400	\$679,250
Soft Costs	5%	\$27,500	\$66,096	\$33,963
Total Construction Costs		\$577,500	\$1,388,021	\$801,570
				\$713,213
Total Costs (incl. site acquisition)		\$1,227,500	\$2,038,021	\$1,451,570
Developer Profit (% of Total Const. Costs)	12%	\$69,300	\$166,563	\$96,188
Total Development Costs		\$1,296,800	\$2,204,584	\$1,547,758
(Including Developer Profit)				\$1,448,798
<u>Profit/Return Calculation</u>				
(Cost compared to Surveyed House Sale Price)	Survey Low	Survey High	Survey Average	Survey Median
Surveyed House Sale Price	\$340,000	\$1,900,000	\$832,009	\$747,500
Net Gain/(Loss)	(\$956,800)	(\$304,584)	(\$715,749)	(\$701,298)
Percent Profit (Loss) over Costs	-73.8%	-13.8%	-46.2%	-48.4%

Schedule 2 (Excluding Developer Profit)

<u>Profitability/Financial Feasibility Analysis</u>				
Acquisition Cost of Site		\$650,000	\$650,000	\$650,000
		Survey Low	Survey High	Survey Average
Assumed House Size (sq. ft.)		2,000	4,807	2,776
				Survey Median
				2,470
<u>Construction Costs (New single-family house)</u>				
Construction hard costs/sq. ft.		\$275	\$275	\$275
Construction hard costs		\$550,000	\$1,321,925	\$763,400
Soft Costs	5%	\$27,500	\$66,096	\$38,170
Total Construction Costs		\$577,500	\$1,388,021	\$801,570
Total Costs (incl. site acquisition)		\$1,227,500	\$2,038,021	\$1,451,570
Developer Profit (% of Total Const. Costs)	0%	\$0	\$0	\$0
Total Development Costs (Including Developer Profit)		\$1,227,500	\$2,038,021	\$1,451,570
				\$1,363,213
<u>Profit/Return Calculation</u>				
(Cost compared to Surveyed House Sale Price)		Survey Low	Survey High	Survey Average
Surveyed House Sale Price		\$340,000	\$1,900,000	\$832,009
Net Gain/(Loss)		(\$887,500)	(\$138,021)	(\$619,561)
Percent Profit (Loss) over Costs		-72.3%	-6.8%	-42.7%
				-45.2%

In summary, the preceding Profitability/Financial Feasibility Analysis demonstrates that the Applicant cannot realize a reasonable return by using the Project Site for single-family residential purposes as permitted in the City of Beacon's "R1-10 One-Family Residence" ("R1-10 District") zoning district. The preceding analysis demonstrates the Applicant's inability to realize a reasonable return. It also demonstrates that the lack of return (loss) is substantial if the property were to be develop with a single-family residence.

###

ZONING FEASIBILITY ANALYSIS

Project Site: 925 Wolcott Avenue
City of Beacon
Dutchess County, New York

Submitted: 925 Wolcott LLC
c/o Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, New York 10601

Prepared by: Hudson Property Advisors, LLC

Date of Report: May 18, 2023

HPA File No. 2023.04019

HUDSON PROPERTY ADVISORS, LLC

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In accordance the request of 925 Wolcott LLC, represented by Cuddy & Feder, LLP, Hudson Property Advisors conducted an on-site physical inspection of the Project Site, conducted market data research, obtained information from the property owner, their engineer, architect and/or and other experts and performed the necessary analysis which enabled us to provide an opinion of the economic viability of various uses for the Project Site in connection with a zoning related matter. Findings contained herein are based, in part, on information provided by the owner as well as other sources deemed reliable, however, no warranty or representation is made to the accuracy thereof and same is submitted subject to errors, omissions and other conditions including those included in, but not necessarily limited to, the Underlying Assumptions and Contingent Conditions section of the Addendum. This report is not an appraisal of real property, nor should it be construed as such. No real estate appraisal services are provided herein and no opinion of market value (or market rent) is offered herein.

This feasibility analysis includes the following sections:

1. Introduction.
2. Methodology.
3. Property History.
4. Location description.
5. Project Site - Existing Conditions.
6. Project Site – Proposed Action
7. Principal Permitted Uses “R1-10” zoning district.
8. Description of Permitted Use Scenarios.
9. Economic Viability based on Sales.
10. Economic Viability based on Rentals.
11. Analysis of Economic Viability – Permitted Principal Uses.
12. Conclusion.

In addition, within the addendum are the following:

1. Property plot plan;
2. Portion of zoning map;
3. Deed;
4. Demolition cost estimate;
5. Definitions of some common terms;
6. Assumptions and limiting conditions.

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1. Introduction

The Project Site is known as 925 Wolcott Avenue in the City of Beacon, Dutchess County, NY. The Project Site is municipally identified on the official maps and rolls of the City of Beacon as Grid No. 130200-5954-44-922633-0000 ("5954-44-922633").

The Project Site consists of a 0.41± acre parcel of land which had long been improved with a three-story frame structure that was used as a 16-unit multi-family SRO dwelling. The structure was destroyed by fire within the past year or so. Plans call for re-development of the property with a new SRO, nine-unit multi-family building (with each unit having a bathroom and kitchenette).

The property is situated within a district designated "R1-10 One-Family Residence District, 10,000 square feet per dwelling unit" by the City of Beacon which does not permit this use. The Applicant is seeking a use variance for the legalization of its construction.

The analysis contained herein demonstrates the lack of economic viability that would be provided to the Project Site based on the Principal Permitted Uses allowed in the "R1-10 One-Family Residence District, 10,000 square feet per dwelling unit" zoning district (hereinafter referred to as "R1-10 District"). The analysis assumes that the prior existing use (as a 16-unit multi-family SRO dwelling) is economically viable if allowed to continue under a zoning variance; this analysis also assumes that the proposed use (as a nine-unit multi-family SRO dwelling) will be economically viable if allowed continue under a zoning variance.

Our analysis is made as of the date of our physical inspection of the Project Site, May 15, 2023. As indicated in the statement of underlying assumptions and contingent conditions appearing at the end of this report, this analysis is predicated on the assumption that the Project Site is free of asbestos, and is unimpaired by contamination or contamination related issues. We do not have the expertise to recognize such conditions. It is the responsibility of the client to retain other experts who have training and experience in ascertaining the existence of these substances.

This report includes the following sections:

1. Introduction.
2. Location Description.
3. Property History.
4. Methodology.
5. Project Site - Existing Conditions.

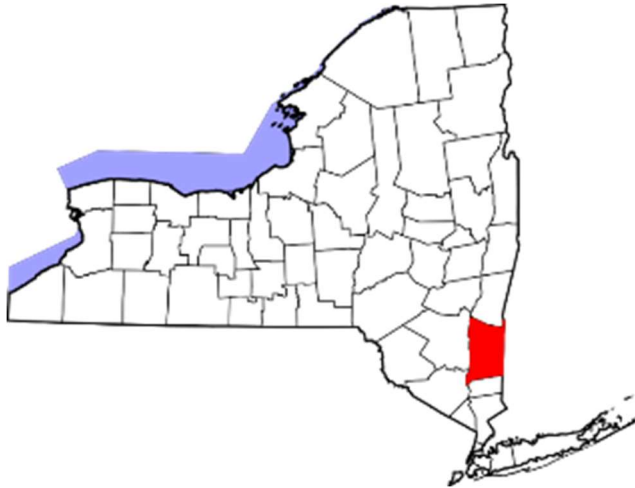
6. Project Site – Proposed Action.
7. Principal Permitted Uses “R1-10 One-Family Residence District, 10,000 square feet per dwelling unit” zoning district.
8. Principal Permitted Use Scenarios.
9. Economic Viability of Single-family Use based on market data research with respect to sales of recent sales of single-family homes in the area of the Project Site.
10. Economic Viability of Single-family Use based on market data research with respect to recent rentals of single-family homes in the area of the Project Site.
11. Conclusion of economic viability/financial feasibility of “As of Right” uses permitted in the “R1-10” zoning district.
12. Conclusion.

In addition, within the Addendum are the following:

1. Property Plot Plan Project Site.
2. Portion of City Zoning Map.
3. Deed to Project Site.
4. Definitions of some Common Terms.
5. Underlying Assumptions and Limiting Conditions.

2. Location

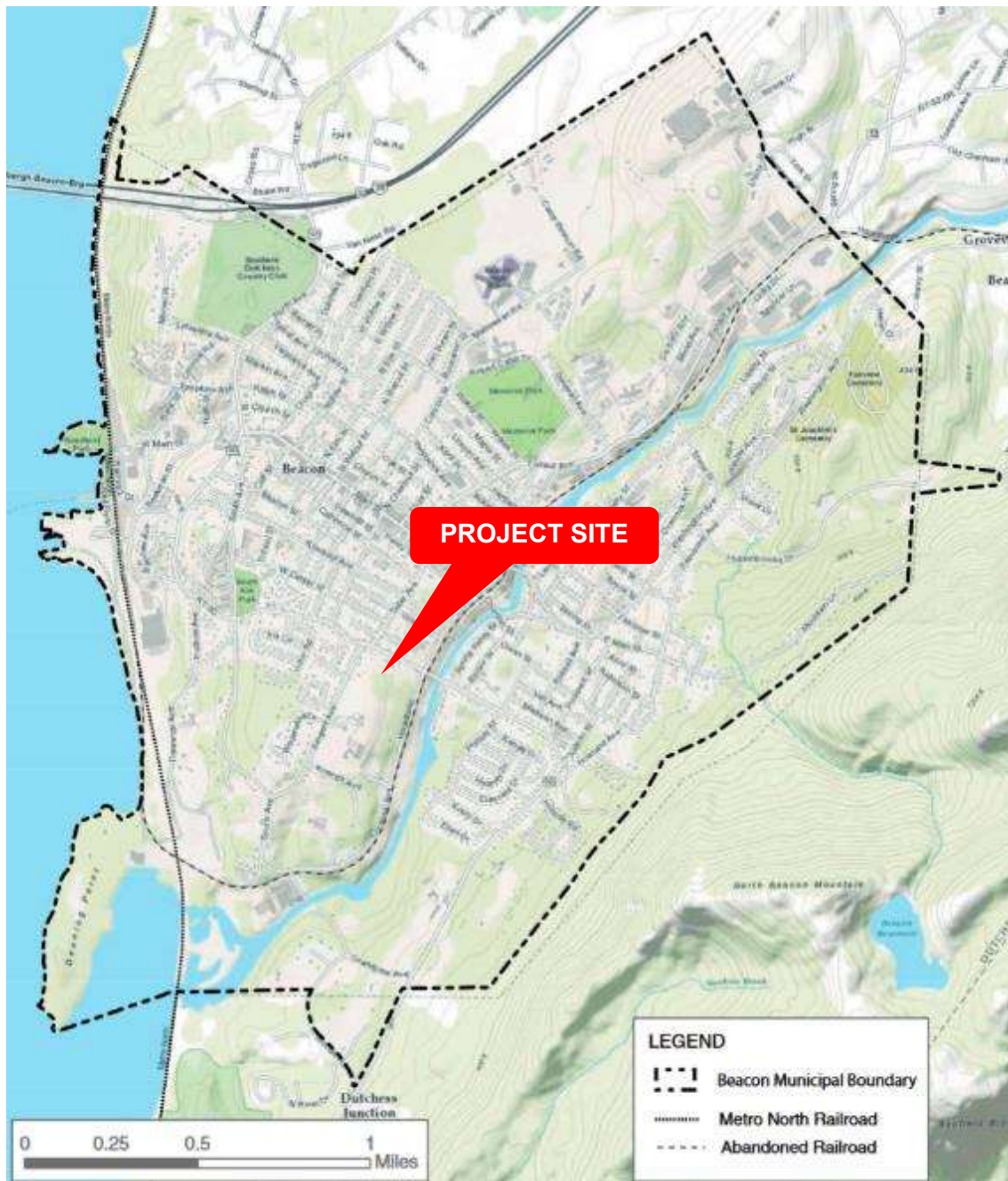
The Project Site is located in the City of Beacon in Dutchess County, NY. Dutchess County is considered part of the Hudson River Valley Region. The southwestern portion of Dutchess County has developed into a largely residential area with many residents commuting to New York City. The northern and eastern regions of the county remain rural with large tracts of working farmland, including many held as



investments. The Project site is situated in the central portion of the City of Beacon, several blocks southwest of Beacon's central business district. The Project Site is situated at the confluence of NY State Route 9D (known locally as Wolcott Avenue and Teller Avenue. NY State Route 9D is the main north/south roadway in the area; Teller Avenue is one of the main east/west roadways in the area. According to the NY State Department of Transportation, the AADT (Average Annualized Daily Traffic count) along the stretch of NY State Route 9D directly

south of the Project Site was 6,143 vehicles (estimated) and the count for the stretch immediately north of the Project Site was 6,680 vehicles (actual). The immediate neighborhood is primarily characterized by single-family residential land uses, including many which appear to have been constructed 75 or more years ago. A number of small scale (typically less than six ~ eight units or so) multi-family residences are also located in the nearby area. For example, 895 Wolcott Avenue, just two blocks south of the Project Site, contains seven apartments. Additional larger multi-family development is currently being developed near Fishkill Creek just a few blocks away. Other than being situated at the confluence of two main roads, with a relatively constant level of vehicular traffic, no apparent adverse impacts were observed in the area and the location is considered well-suited for residential land use.

LOCATION MAP- CITY OF BEACON



Base Map Source:

City of Beacon Comprehensive Plan Update, Adopted April 3, 2017, prepared by BFJ Planning

Project Site: 925 Wolcott Avenue
City of Beacon, Dutchess County, New York
Grid No. 5954-44-922633



TRAFFIC DATA MAP

3. Property History

Below is a brief history of the recent history of the property.

Date	Description
July 2018	Ownership of the property was acquired by LAJ Beacon LLC by virtue of a certain deed dated July 18, 2018 which was recorded in the Dutchess County Clerk's Office, Division of Land Records in Deed Book 22018, Page 5433 of Deeds therein. The indicated purchase price was \$1,225,000. Additional property was included in that sale; a portfolio allocation was unavailable.
July 2022	Ownership of the property was acquired by 925 Wolcott, LLC from LAJ Beacon LLC by virtue of a certain deed dated July 13, 2022 which was recorded in the Dutchess County Clerk's Office, Division of Land Records as Deed Document # 02 2022 52712 of deeds therein. Although the indicated purchase price was \$650,000, the current owner reported that the purchase price was not indicative of market value at the time of sale. First, the property was acquired in an off-market transaction (it was not exposed to the open market). Second, the acquisition was part of a portfolio (a package of three properties) and the price represented an allocation between three properties. Third, and perhaps most importantly, ownership reported that there was a "complication" between the three partners who were selling the portfolio. This complication included the fact that one of the partners (the largest equity investor) had obtained their acquisition funding from a family member who wanted to be paid back and the partner was very desperate to sell the property. Overall, the lack of exposure to the open market, distress nature of the sale and the fact that the sale represented a package price indicate that the sale does not meet the definition of an arm's length transaction. As a result, the purchase price can not be considered a valid indication of market value. At the time of purchase, the acquisition/construction was financed with a \$585,000 acquisition loan and a \$485,000 construction loan from Wisdom Funding USA LLC. The purchaser (current owner) submitted a plan to the Building Department to conduct a full gut renovation which would have converted the building into nine rental apartments. A Building Permit was issued on December 12, 2022.
January 3, 2023	The building suffered a fire which was caused by arson and resulted in a complete loss.

4. Methodology

The analysis contained herein evaluates economic viability that would be provided to the Project Site if developed with the Principal Permitted Uses allowed in the “R1-10 One-Family Residence” (“R1-10 District”) zoning district and compares that potential to the economic viability of the prior use.

In order to accomplish this objective, market data with respect to sales of detached single-family homes in the vicinity was researched and analyzed and the results are compared to indications of property value¹ at the time of its fairly recent acquisition.

This report focuses on the economic viability of single-family detached residential use and compares the viability of that use to the previous (SRO) use. The Client requested that market data research with respect to recent sales of single-family homes in the area is conducted for the purpose of demonstrating recent pricing levels for this property type in this particular sub-market. In addition, the Client also requested that market data research with respect to rentals of single-family homes in the sub-market area be conducted for the purpose of comparing that potential income to the income that was generated by the improvements that had previously been on the property.

The comparisons described above demonstrate the economic viability (or lack thereof) that would be provided to the Project Site if developed with the Principal Permitted Uses allowed in the “R1-10 One-Family Residence” zoning district and compares that viability to the previous multi-family use.

¹ The term “indication(s) of value” used herein is used as common language; it is not used as such term is defined in the Dictionary of Real Estate Appraisal, a publication of the Appraisal Institute (i.e., a value derived from the Sales Comparison Approach).

5. Project Site – Existing Conditions

The Project Site is located at the southeast corner of Wolcott Avenue and Sargent Avenue. Known locally as Wolcott Avenue, this stretch of roadway is part of NY State Route 9D the main north/south roadway in the area. Opposite the Project Site is Teller Avenue, one of the main east / west roadways in the area. The Project Site is municipally identified by the City of Beacon as Grid No. 5954-44-922633. A legal description for the Project Site is included in the deed in the Addendum. The Project Site is located in a district designated “R1-10 One-Family Residence District, 10,000 square feet per dwelling unit” by the official Zoning Ordinance of the City of Beacon.

A plot plan² has been provided to us by the Client for purposes of analyzing and describing measurements of distance and area, location of lot lines, rights-of-way, etc.

According to the plot plan, the Project Site contains 17,085.5 square feet (0.41 acre) of land, with 122.00± feet of frontage along the west side of Wolcott Avenue and 146 feet of frontage along the south side of Sargent Avenue. The Project Site is irregular in shape (nearly rectangular). The topography within the Project Site, as observed at our inspection, indicates generally level land.

Wolcott Avenue, in the vicinity of the Project Site, is a two-way public street improved with macadam paving, a pedestrian sidewalk along the east side (opposite the Project Site), street lights and pavement markings. Wolcott Avenue in the immediate vicinity runs generally in a northwest/southeast course, with one lane of traffic in each direction; posted speed limit is 15 mph.

Sargent Avenue, in the vicinity of the Project Site, is a two-way public street improved with macadam paving and overhead street lighting. Sargent Avenue, in the immediate vicinity, runs generally in a northeast/southwest course, with one lane of traffic in each direction; posted speed limit is 15 mph.

No soils report was provided; we assume that the Project Site’s soils are adequate to support development. Public utilities in the vicinity and available to the Project Site include telephone, electric, water and sewer. Visibility of the site from fronting roads is available from both directions of vehicular traffic at the vicinity of the site.

Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by us. We have no knowledge of the existence of such

² Map entitled “Plot Plan, Multi-family Building, 925 Wolcott Avenue, Beacon, NY, Parcel ID: 130200-5954-44-922633-0000,” prepared by David Niemoitko, NY State Registered Architect, David Niemoitko, Architects, dated March 17, 2023 (See Addendum).

materials on or in the Project Site. We, however, are not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the use of the property. The opinion(s) provided herein are predicated on the assumption that there is no such material on or in the property that would cause a loss in use or value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The Client is urged to retain an expert in this field, if desired.

The Project Site had previously been improved with a part one- and part three-story frame structure containing sixteen residential rental units used as a rooming house. The building was originally constructed in 1906, underwent renovations as recently as 2022 and contained a main section of 4,136 sq. ft. and a rear section (25' x 25') of 625 sq. ft., for a total of 4,761 square feet. The building was destroyed by fire January 3, 2023.

TAX PARCEL MAP WITH AERIAL OVERLAY



Base MAP Source: *Dutchess County Parcel Access (GIS)*

Project Site: 925 Wolcott Avenue
City of Beacon, Dutchess County, New York
Grid No. 5954-44-922633



Photographic Log

Client Name: Cuddy & Feder LLP		Site Location: 925 Wolcott Avenue City of Beacon, Dutchess County, New York Grid No. 5954-44-922633	Project No.: 2023.04019
Photo No.: 1	Date: 5/15/2023		
Direction Photo Taken: Northwest			
Wolcott Avenue (NY State Route 9D) view northbound			

Photo No.: 2	Date: 5/15/2023	
Southeast		
Description: Wolcott Avenue (NY State Route 9D) view southbound (Project Site road frontage on right hand side of photo)		

Photographic Log

Client Name: Cuddy & Feder LLP		Site Location: 925 Wolcott Avenue City of Beacon, Dutchess County, New York Grid No. 5954-44-922633	Project No.: 2023.04019
Photo No.: 3	Date: 5/15/2023		
Direction Photo Taken: Northeast			
Description: Sargent Avenue facing toward Wolcott Avenue			
Photo No.: 4	Date: 5/15/2023		
Direction Photo Taken: Southwest			
Description: Sargent Avenue facing southwest (Project Site's Sargent Avenue road frontage shown on left hand side of photo)			

Photographic Log

Client Name: Cuddy & Feder LLP		Site Location: 925 Wolcott Avenue City of Beacon, Dutchess County, New York Grid No. 5954-44-922633	Project No.: 2023.04019
Photo No.: 5	Date: 5/15/2023		
Direction Photo Taken: Southeast			
Description: Northerly portion of Project site (at corner of Sargent Avenue and Wolcott Avenue).			
Photo No.: 6	Date: 5/15/2023		
Direction Photo Taken: West			
Description: View of driveway entrance to Project Site and road frontage along Wolcott Avenue (NY State Route 9D).			

Photographic Log

Client Name: Cuddy & Feder LLP		Site Location: 925 Wolcott Avenue City of Beacon, Dutchess County, New York Grid No. 5954-44-922633	Project No.: 2023.04019
Photo No.: 7	Date: 5/15/2023		
Direction Photo Taken: Southwest			
Description: View of Project Site (Wolcott Avenue/NY State Route 9D in foreground)			

Photo No.: 8	Date: 5/15/2023	
Direction Photo Taken: Northeast		
Description: View of Project Site (Sargent Avenue in foreground)		

6. Project Site – Proposed Action

The purchaser (current owner) submitted a plan to the City of Beacon Building Department to conduct a full gut renovation of the prior structure which would have converted the building into nine rental apartments. A Building Permit was issued on December 12, 2022. The Client provided us with a set of plans³ illustrating the conversion to this use. The building was designed in a classic architectural style with ample fenestration, large front porch and a Mansard style roof.

Below is a front elevation for visual assistance.



Front Elevation

Source:

David Niemotko, NY State Registered Architect, David Niemotko, Architects

³ Plans entitled "Renovation of Existing House, 925 Wolcott Avenue, Beacon, NY," prepared by David Niemotko, NY State Registered Architect, David Niemotko, Architects, dated September 15, 2022, with subsequent revisions (See Addendum).

Plans called for a mix of four studio apartments and five one-bedroom apartments, each with kitchen and private bathroom. Proposed unit mix is shown in the following table:

PROPOSED UNIT MIX (925 WOLCOTT AVENUE)

Floor	Unit No.	Type	Bdrms	Bths
1	1	One-bdrm	1	1
1	2	One-bdrm	1	1
1	3	Studio	0	1
1	4	Studio	0	1
2	1	Studio	0	1
2	2	One-bdrm	1	1
2	3	Studio	1	1
3	1	One-bdrm	1	1
3	2	One-bdrm	1	1

7. Principal Permitted Uses, “R1-10” Zoning District

According to City of Beacon Zoning⁴, permitted uses for properties situated within The “R1-10 One-Family Residence” (“R1-10 District”) zoning district are as follows:

Permitted Uses by District	Reference Notes	All R1
Residential		
One-family detached dwelling		P
One-family attached/semidetached	Including townhouses	X
Two-family dwelling		X
Multifamily dwelling		X
Artist live/work space	Subject to § 223-14.2	X
Retail/Office/Service		
Retail, personal service, or bank		X
Office		X
Artist studio, art gallery/exhibit space		X
Funeral home		X
Commercial recreation, indoor		X
Auction gallery		X
Adult use	Subject to § 223-20.1	X
Food/Lodging		
Restaurant or coffee house		X
Bar/brew pub/microbrewery/microdistillery		X
Food preparation business		X
Short-term rental	Subject to § 223-26.5	P
Bed-and-breakfast	Subject to § 223-24.4	SP
Inn		X
Hotel	Subject to § 223-14.1	X
Social/Community		
Spa/fitness center/exercise studio		X
Day-care center		X
Park, preserve, community garden		P
Theater, concert or conference space		X
Museum		SP*
Place of worship/religious facility		P
Social club	Subject to § 223-24.2	SP

Key

X = Use Not Permitted

P = Permitted Use

SP = Special Permit Use by Planning Board

SP* = Special Permit Use by City Council

Based on the regulations, the only allowable By-Right Permitted Uses for the subject are:

1. One-family detached dwelling;
2. Short-term rental;
3. Park, preserve, community garden;
4. Place of worship/religious facility.

⁴ §223 Attachment 2, 223-17. City of Beacon Schedule of Use Regulations, [Added 6-15-2020 by L.L. No. 7-2020;1 amended 2-16-2021 by L.L. No. 2-2021; 9-19-2022 by L.L. No. 8-2022; 9-19-2022 by L.L. No. 9-2022]

8. Principal Permitted Use Scenarios

The “R1-10 One-Family Residence” zoning district allows the four uses cited previously. Since park, preserve, community garden uses are not considered for-profit land uses (they are not purchased for financial profitability) they will not be considered in this analysis.

Similarly, places of worship/religious facility uses are not considered for-profit land uses (they are not purchased for financial profitability) they will not be considered in this analysis. Short term rentals as per City code, are rentals of less than 30 consecutive days, and only for owner-occupied residences.

This report, therefore, focuses on the economic viability of single-family detached residential use and compares the viability of that use to the previous (SRO) use. The Client requested that we conduct market data research with respect to recent sales of single-family homes in the area for the purpose of demonstrating recent pricing levels for this property type in this particular sub-market.

9. Economic Viability of Single-family Use based on Sales Data

In order to test the financial feasibility/economic viability of the development under single-family use, market data with respect to sales of detached single-family homes was conducted. This research is compared to the implications of value provide by the Client's prior appraisal. The research focused on sales of detached single-family homes that occurred over the past twelve months in the City of Beacon and contained between 2,000 and 5,000 square feet of living area and had lots ranging in size from 0.10 to 1.5 acres. Below is a summary of the 27 sales found.

SINGLE-FAMILY HOME SALES, BEACON, NY (PAST 12 MONTHS)

Listing #	Address	BD	BA	Sq Ft	Yr Built	Acres	Price	Sold Date
6206856	37 N Elm Street	4	3 (3 0)	2,260	1900	0.15	\$340,000	2/27/2023
6186473	33 Lafayette Avenue	4	2 (2 0)	2,054	1950	0.32	\$450,000	8/17/2022
6169292	108 Spring Valley Street	4	3 (3 0)	2,440	1885	0.12	\$490,000	6/1/2022
6090912	0 Washington Avenue	3	3 (2 1)	2,000	2021	0.26	\$520,000	5/31/2022
6192482	49 Lafayette Avenue	4	2 (2 0)	2,470	1950	0.22	\$600,000	8/26/2022
6185995	387 Liberty Street	3	2 (2 0)	2,076	1880	0.23	\$600,000	8/9/2022
6171868	3 Ralph Street	3	2 (1 1)	2,373	1935	0.45	\$615,000	5/31/2022
6181379	17 Talbot Avenue	2	2 (2 0)	2,141	1970	0.26	\$625,721	6/22/2022
6207844	62 Spring Valley Street	4	4 (3 1)	2,072	1870	0.14	\$680,000	2/10/2023
6172773	42 Rende Drive	4	3 (2 1)	2,040	1970	0.23	\$706,000	5/31/2022
6198232	65 Dennings Avenue	4	3 (3 0)	2,734	2018	0.41	\$715,000	11/2/2022
6197971	14 W Willow Street	3	2 (2 0)	2,700	1939	0.23	\$725,000	10/11/2022
6169503	205 E Main Street	4	3 (3 0)	2,564	1900	0.22	\$727,000	6/24/2022
6173005	33 N Cedar Street	3	3 (3 0)	2,200	2004	0.14	\$747,500	6/10/2022
6183078	38 Lafayette Avenue	4	4 (3 1)	2,209	1892	0.11	\$835,000	7/1/2022
6169983	5 Dutchess Terrace	5	3 (3 0)	3,900	1920	0.29	\$835,000	5/24/2022
6198527	27 Willow Street	3	3 (2 1)	2,076	1880	0.11	\$840,000	10/27/2022
6186247	26 Slocum Road	4	4 (3 1)	4,807	2003	2.00	\$865,000	9/14/2022
6225562	21 Exeter Circle	4	5 (4 1)	4,200	2002	0.95	\$892,416	4/5/2023
6179542	8 Churchill Street	4	4 (3 1)	3,000	1869	0.17	\$945,000	8/18/2022
6165373	25 Riding Ridge Trail	4	3 (2 1)	3,047	2016	2.05	\$985,600	6/13/2022
6184551	1085 Wolcott Avenue	4	4 (2 2)	2,520	1914	1.80	\$1,050,000	8/12/2022
6183993	19 W Willow Street	5	3 (2 1)	2,400	2012	0.27	\$1,050,000	7/15/2022
6142786	82 Mountain Lane	3	3 (3 0)	3,200	1986	0.63	\$1,225,000	5/16/2022
6203690	55 S Brett Street	3	3 (2 1)	4,400	1900	0.39	\$1,250,000	12/5/2022
6183128	73 Teller Avenue	5	4 (3 1)	4,000	1881	0.29	\$1,250,000	7/14/2022
6182627	135 Sargent Avenue	3	3 (2 1)	3,063	2019	1.29	\$1,900,000	8/3/2022
<i>Survey Low</i>		2		2,000	1869	0.11	\$340,000	
<i>Survey High</i>		5		4,807	2021	2.05	\$1,900,000	
<i>Survey Average</i>		3.7		2,776	1944	0.51	\$832,009	
<i>Survey Median</i>		4		2,470	1939	0.26	\$747,500	

Data Source: Hudson Gateway Association of Realtors (HGAR)

The preceding data demonstrates average and median pricing of \$832,009 and \$747,500 respectively for the 27 sales. The data demonstrates that the vast majority of the market (over 80% of the sales found) ranged in sale price between \$600,000 and \$1,250,000.

The Client provided us with a copy of a real estate appraisal report⁵ that was prepared as of May 16, 2022. A review of that appraisal (as such term is defined in the Uniform Standards of Appraisal Practice, USPAP) is beyond the scope of, and was not performed for, this assignment. As result, it is beyond the scope of this assignment to agree or disagree with the conclusion(s) reached therein. The conclusion reached in the Colliers appraisal report is taken at face value for comparison purposes. That appraisal report concluded at an “as-is” market value of \$1,700,000.

To test the economic viability of a detached single-family home use, the following implications are compared below:

Majority of market (House Sales)	\$600,000 ~ \$1,200,000
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Appraisal Report Value of original 16 unit building	\$1,700,000
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A comparison of these implications demonstrates a relatively large discrepancy. This discrepancy is an indication of the lack of financial feasibility / economic viability of a detached single-family house use compared to the prior multi-family residential use. If building were to be erected that was smaller than the previous building, the construction cost may be lesser, but correspondingly the value of the property may fall under that listed in the Appraisal Report.

⁵ Appraisal report of 925 Wolcott Avenue, Beacon, New York, 12508, prepared by Colliers International Valuation and Advisory Services, Colliers File #JFK220556.

10. Economic Viability of Single-family Use based on Rental Data

In order to test the financial feasibility/economic viability of the development under single-family use, market data with respect to rentals of detached single-family homes was conducted. This research is compared to the implications of rental income provide by the Client's prior appraisal. The research focused on rentals of detached single-family homes in the City of Beacon that occurred over the past twelve months in the city of Beacon. Below is a summary of the nine rentals found.

SINGLE-FAMILY HOME RENTALS, BEACON, NY (PAST 12 MONTHS)

MLS#	Address	BR Bth	Sq. ft.	Year Built	Style	Lot Size	Area	Date	Rent
6206298	17 N Brett Street Unit#A	2 1 (1 0)	600	1940	Bungalow	0.43		1/21/2023	\$2,100
6202480	51 N Elm Street	2 1 (1 0)	788	1929	Arts&Crafts, Bungalow	0.15		8/24/2022	\$2,200
6216231	5 N Elm Street Unit#B 1st Floor	1 1 (1 0)	1,358	1890	Contemporary, Other	0.06		12/9/2022	\$2,400
6206892	2 Spring Valley Street Unit#RH	3 1 (1 0)	950	1870	Cottage	0.27		4/26/2023	\$2,500
6205924	169 Verplanck Avenue	3 2 (1 1)	1,301	1880	Split Level	0.19		10/13/2022	\$2,800
6224750	1459 NY 9D Route	3 2 (2 0)	1,312	1927	Capecod	0.62		2/4/2023	\$2,950
6214051	95 E Main Street	5 2 (2 0)	2,000	1870	Two Story	0.06		10/10/2022	\$3,000
6236649	22 Helen Court	3 2 (1 1)	1,502	1989	Colonial	0.16		3/31/2023	\$3,300
6196404	5 Dewindt Street	3 2 (2 0)	1,276	1900	Capecod	0.13		7/18/2022	\$3,850
Survey Low		1	600	1870		0.06			\$2,100
Survey High		5	2,000	1989		0.62			\$3,850
Survey Average		3	1,232	1911		0.23			\$2,789
Survey Median		3	1,301	1900		0.16			\$2,800

Data Source: Hudson Gateway Association of Realtors (HGAR)

Note: Some of the rentals above are classified by HGAR as single-family homes but are actually homes that contain more than a single unit (i.e., two-family homes). For example, 51 N Elm Street has at least two units. While it is recognized that the sample size (nine rentals) is smaller than the sample size of the house sales, sufficient data exists to demonstrate a reasonable representation of the market for house rentals in the City.

The preceding data demonstrates rental pricing ranging from \$2,100 per month to \$3,850 per month, with average and median rentals of \$2,789 and \$2,800 per month respectively for the nine rentals found. The data demonstrates that the vast majority of the market (nearly 80% of the rentals found) ranged in rental price between \$2,400 and \$3,850 per month.

The Client provided us with a copy of a real estate appraisal report⁶ that was prepared as of May 16, 2022. As mentioned earlier, a review of that appraisal (as such term is defined in the Uniform Standards of Appraisal Practice, USPAP) is beyond the scope of, and was not performed for, this assignment. As result, it is beyond the scope of this assignment to agree or disagree with the conclusion(s) reached therein. The conclusion reached in the Colliers appraisal report is taken at face value for comparison purposes. That appraisal report indicated a potential gross income of \$244,000 annually. This figure equates to \$20,333 per month.

As mentioned previously, the owner received a Building Permit on December 12, 2022 for conversion of the structure into nine rental apartments described earlier in this report. The owner has estimated a rent range of \$1,700-\$2,200 a month for the apartments , representing an estimated gross monthly income of approximately \$17,550

⁶ Appraisal report of 925 Wolcott Avenue, Beacon, New York, 12508, prepared by Colliers International Valuation and Advisory Services, Colliers File #JFK220556.

To test the economic viability of a detached single-family home use on a rental basis, the implications of gross rental income are compared below:

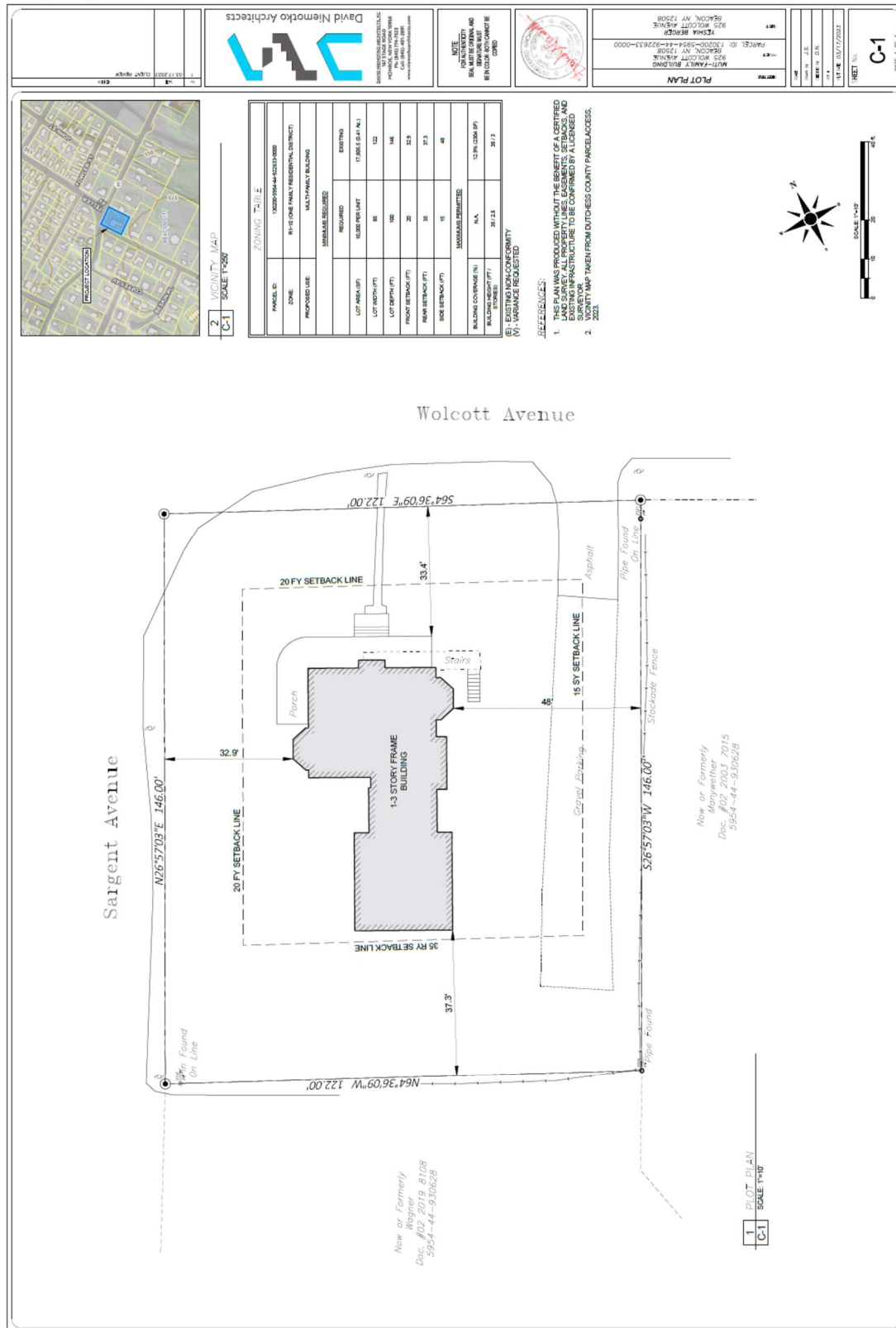
<u>Source</u>	<u>Gross Monthly Income</u>
Majority of Market (House Rentals)	\$2,400 ~ \$3,800 per month
Appraisal report (prior 16 unit building)	\$20,333 per month
Nine units (as per owner)	\$17,550 per month

A comparison of the above implications demonstrates a relatively large discrepancy between single-family use and multi-family use for both the prior 16 unit building and the proposed nine unit building. This discrepancy is an indication of the lack of financial feasibility / economic viability of a detached single-family house use compared to the prior multi-family residential use on a rental basis.

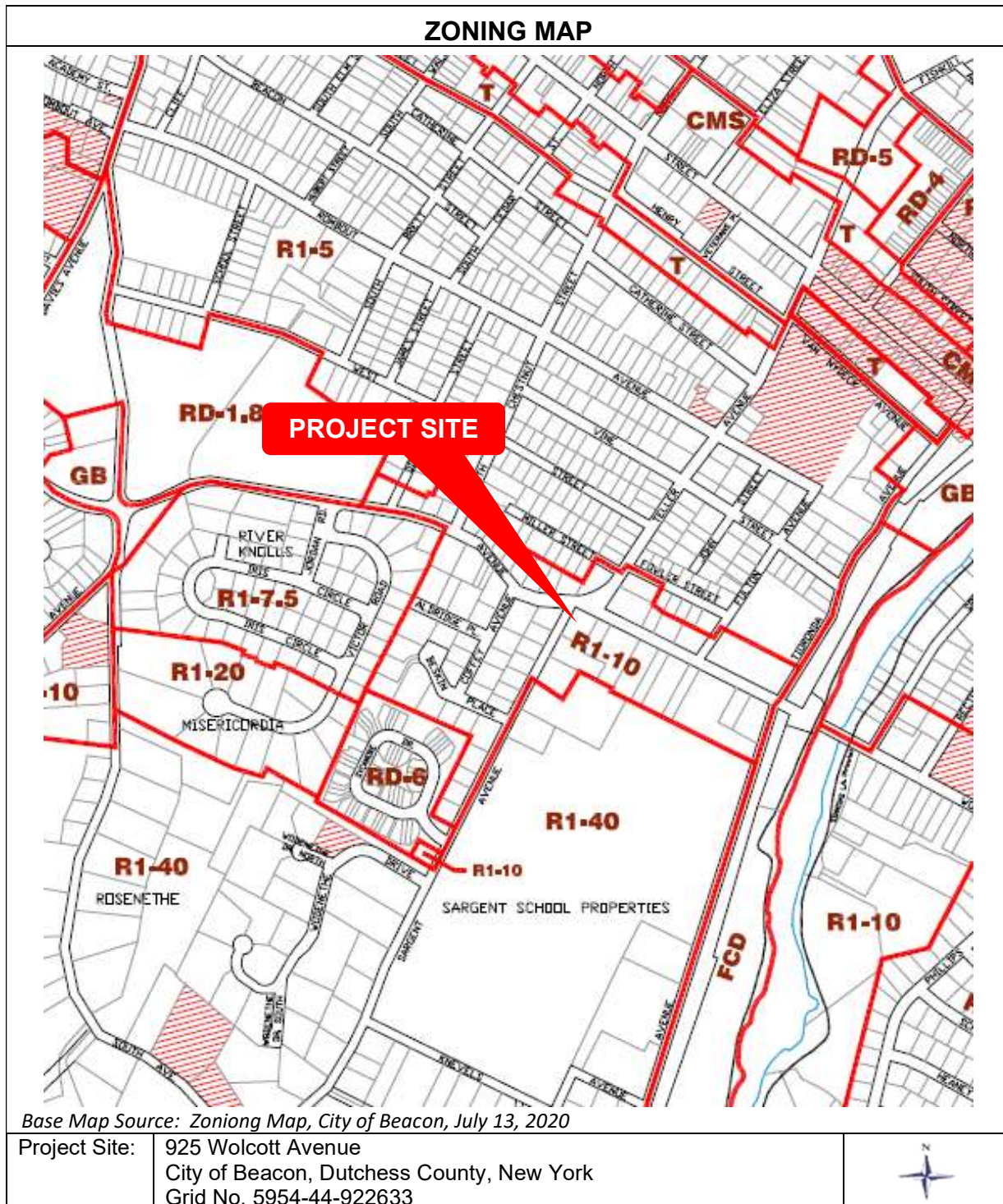
11. Conclusion

In summary, the foregoing analysis demonstrates the lack of economic viability that would be provided to the property based on the Principal Permitted Uses allowed in the “R1-10 District.” As discussed above, none of the uses in the “R1-10 District” studied are expected to provide a financially feasible economic return to the property. Although the main principal permitted use in the “R1-10 District” district (single-family residence use) would normally be considered economically viable in certain locations, it would not be considered economically viable in the instant case compared to the multi-family use given the reasons cited earlier.

Addendum



Portion of Zoning Map



Deed



Dutchess County Clerk Recording Page

Record & Return To:

Date Recorded: 7/28/2022
Time Recorded: 3:05 PM

MADISON TITLE AGENCY LLC
1125 OCEAN AVE
LAKEWOOD, NJ 08701

Document #: 02 2022 52712

Received From: MADISON TITLE AGENCY LLC

Grantor: LAJ BEACON LLC
Grantee: 925 WOLCOTT LLC

Recorded In: Deed
Instrument Type:

Tax District: City of Beacon

Examined and Charged As Follows :

Recording Charge: \$315.00
Transfer Tax Amount: \$2,600.00
Includes Mansion Tax: \$0.00
Transfer Tax Number: 8820

Number of Pages: 4

** Do Not Detach This Page
*** This is Not A Bill

Red Hook Transfer Tax:

RP5217: Y
TP-584: Y

County Clerk By: CSC
Receipt #: 24557
Batch Record: 157

Bradford Kendall
County Clerk



02202252712



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

Effective July 13, 2022

THIS INDENTURE, made the 8th day of June, in the year 2022

BETWEEN LAJ BEACON, LLC having an address of 369 Main St. #493, Beacon NY 12508 party of the first part, and 925 Wolcott, LLC having an address of 40 Catskill Highrail, Monroe, NY 10950. party of the second part,

WITNESSETH, that the party of the first part, in consideration of

Five Hundred Fifty Thousand (\$650,000.00) dollars and other valuable consideration dollars paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the BBeing and intended to be a portion of the same premises conveyed to the party of the first part by Deed from Jeffrey Rothschild as receiver of Jeng-Fu Wu and Hsin-Hsing Wu pursuant to an Order dated 02/22/18 and recorded 02/22/18 in Document No. 11-2017-50960C recorded July 31, 2018 in Document # 02-2018-5433 as further described in Schedule A attached hereto and made a part hereof

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof, TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises. TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed this day and year first above written.

IN PRESENCE OF:

Josh Friedman, as Authorized Signatory for LAJ BEACON, LLC

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of Rockland, ss:

On the 8th day of June in the year 2022, before me, the undersigned, personally appeared

Joshua Friedman
Josh Friedman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of whom the individual(s) acted, executed the instrument.

SOROH RAIZEL DORFMAN
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01D06340156
QUALIFIED IN ROCKLAND COUNTY
MY COMMISSION EXPIRES APRIL 11, 2024

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, a Notary Public in and for said State, personally appeared , the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(If the place of residence is in a city, include the street and street number if any, thereof): that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

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

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE

State of , County of , ss:

*(Or insert District of Columbia, Territory, Possession or Foreign County)

On the day of in the year , before me the undersigned personally appeared

Personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgment was taken).

Bargain and Sale Deed With Covenants

Title No. MTANY 174559-02

L&J BEACON, LLC
TO
925 Wolcott, LLC

DISTRIBUTED BY

YOUR TITLE EXPERTS
The Judicial Title Insurance Agency LLC
800-281-TITLE (6485) FAX: 800-FAX-9396

SECTION: 5954
BLOCK: 44
LOT: 922633
COUNTY OR TOWN: Dutchess

RETURN BY MAIL TO:

Adam K. Kurland, Esq.
ADAM K. KURLAND, ATTORNEY AT LAW, P.C.
337 North Main Street
Suite 11
New City, New York 10956

Stewart Title Insurance Company

Title No.: MTANY-174459-02

SCHEDULE A CONTINUED

LEGAL DESCRIPTION

All that certain lot, piece or parcel of land, situate, lying and being in the City of Beacon, County of Dutchess and State of New York, bounded and described as follows:

BEGINNING in the southwesterly line of Wolcott Avenue at the northwesterly corner of lands of Supple; and

RUNNING THENCE with northwesterly line of lands of Supple southwesterly 146 feet;

THENCE northwesterly 122 feet (Deed: 120 feet) to the southeasterly line of Sargent Avenue;

THENCE with the southeasterly line of Sargent Avenue, northeasterly 146 feet to the intersection of the southeasterly line of Sargent Avenue with the southwesterly line of Wolcott Avenue;

THENCE with the southwesterly line of Wolcott Avenue, southeasterly 122 feet to the place of BEGINNING.

NOTE: Being Grid No. 595-44-922633, Tax Map of the City of Beacon, County of Dutchess.

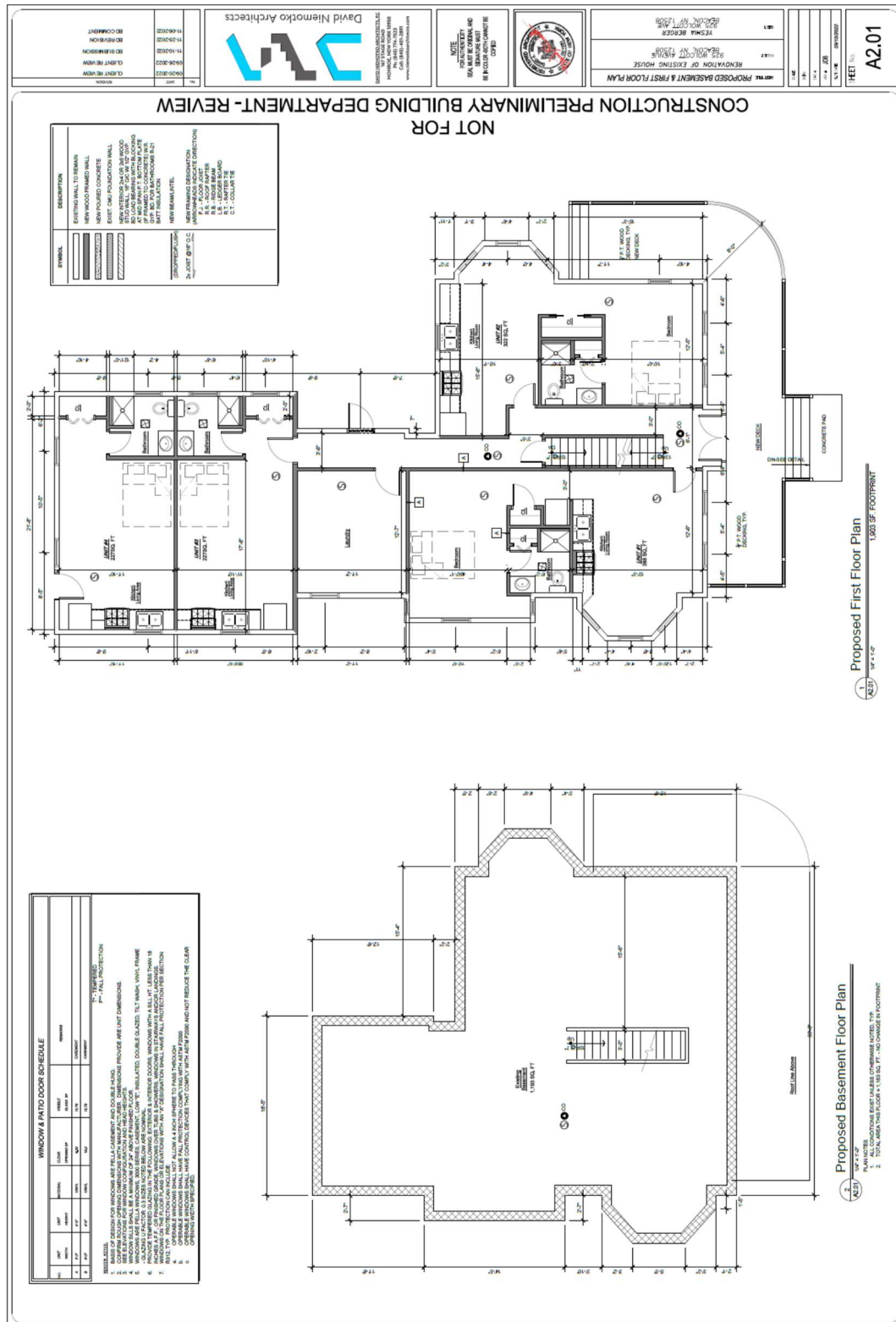
NOTE: Lot and Block shown for informational purposes only.

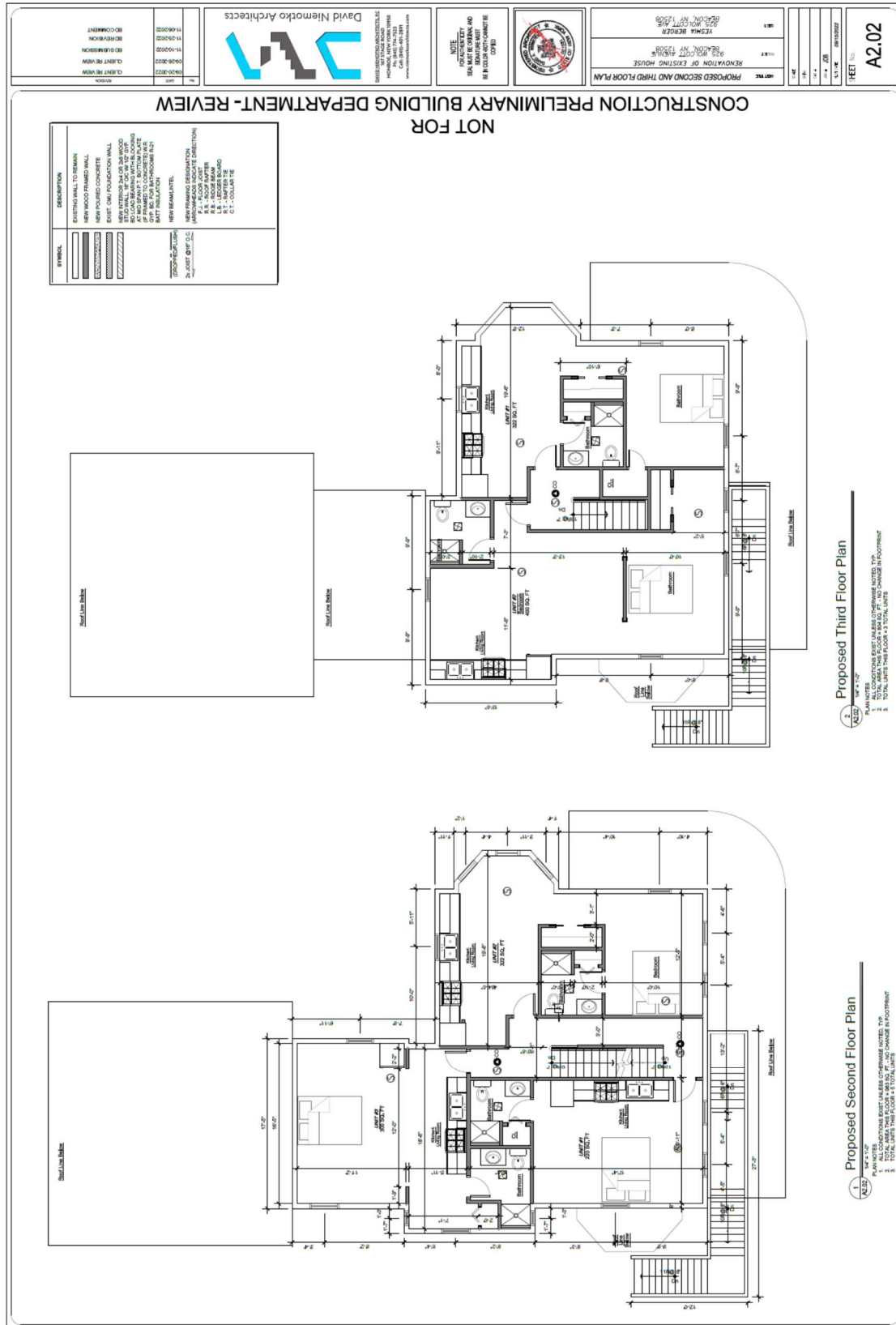
Issued by:

Madison Title Agency, LLC
1125 Ocean Avenue, Lakewood, NJ 08701
Telephone: 732-905-9400 Fax: 732-905-9420

NY Report – Legal Description

174459-02/83





Definitions of Common Terms

Since the report utilizes a number of terms that are common in the industry but not necessarily common to the reader, for the sake of clarity and consistency, the following definitions, obtained from Appraisal Institute⁷, will be used herein. It is noted that some of the definitions are more commonly used with other property types (i.e., retail, office) but they are included herein.

Functional Utility

The ability of a property or building to be useful and to perform the function for which it is intended according to current market tastes and standards; the efficiency of a building's use in terms of architectural style, design and layout, traffic patterns, and the size and type of rooms.

Gross Income

Total income from a property before deducting any expenses, customarily stated on an annual basis

Discount Rate

A rate of return on capital used to convert future payments or receipts into present value

Effective Gross Income (EGI)

The anticipated income from all operations of the real estate after an allowance is made for vacancy and collection losses and an addition is made for any other income.

Net Operating Income (NOI)

The actual or anticipated net income that remains after all operating expenses are deducted from effective gross income but before mortgage debt service and book depreciation are deducted. Note: This definition mirrors the convention used in corporate finance and business valuation for EBITDA (earnings before interest, taxes, depreciation, and amortization)."

Direct Capitalization

A method used to convert an estimate of a single year's income expectancy into an indication of value in one direct step, either by dividing the net income estimate by an appropriate capitalization rate or by multiplying the income estimate by an appropriate factor. Direct capitalization employs capitalization rates and multipliers extracted or developed from market data. Only one year's income is used. Yield and value changes are implied, but not explicitly identified.

⁷ Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. (Chicago: Appraisal Institute, 2022), PDF e-book.

Gross Building Area (GBA)

1. Total floor area of a building, excluding unenclosed areas, measured from the exterior of the walls of the above grade area. This includes mezzanines and basements if and when typically included in the market area of the type of property involved.
2. Gross leasable area plus all common areas.
3. For residential space, the total area of all floor levels measured from the exterior of the walls and including the superstructure and substructure basement; typically does not include garage space.

Gross Living Area (GLA)

“Total area of finished, above-grade residential space; calculated by measuring the outside perimeter of the structure and includes only finished, habitable, above-grade living space. (Finished basements and attic areas are not generally included in total gross living area. Local practices, however, may differ.)”

Load Factor

“A measure of the relationship of common area to usable area and therefore the quality and efficiency of the building area layout, with higher load factors indicating a higher percentage of common area to overall rentable space than lower load factors; calculated by subtracting the amount of usable area from the rentable area and then dividing the difference by the usable area:

$$\text{Load Factor} = \frac{\text{Rentable Area} - \text{Usable Area}}{\text{Usable Area}}$$

Also known as ‘*add-on factor*.’”

Rentable Area (Net Rentable Area)

For office or retail buildings, the tenant’s pro rata portion of the entire office floor, excluding elements of the building that penetrate through the floor to the areas below. The rentable area of a floor is computed by measuring to the inside finished surface of the dominant portion of the permanent building walls, excluding any major vertical penetrations of the floor. Alternatively, the amount of space on which the rent is based; calculated according to local practice.

Usable Area

1. For office buildings, the actual occupiable area of a floor or an office space; computed by measuring from the finished surface of the office side of the corridor and other permanent walls, to the center of partitions that separate the office from adjoining usable areas, and to the inside finished surface of the dominant portion of the permanent outer building walls. Sometimes called net building area or net floor area.
2. The area that is actually used by the tenants measured from the inside of the exterior walls to the inside of walls separating the space from hallways and common areas.

Underlying Assumptions and Contingent Conditions

This analysis is made subject to the following assumptions and limiting conditions:

1. No responsibility is assumed for matters of a legal nature, or require legal expertise or specialized knowledge beyond that of a real estate analyst nor has an opinion been rendered on title, good and clear title being assumed, free of any encumbrances and/or defects or liens.
2. No opinion is intended to be expressed and no responsibility is assumed for the legal description of the property if any. Although a legal description may be included herein, it is included as a matter of courtesy and no responsibility is assumed for its accuracy or completeness.
3. The distribution of taxes projected herein for land and/or improvements where separately scheduled are applicable to each such respective element of the subject property under the program(s) of utilization. Such individual taxes may not be applicable unless agreed to by the local municipality and are invalid in conjunction with any other analysis.
4. If this report contains a tax estimate relating to an estate that is less than the whole fee simple estate, then (i) the taxes projected for such estate relates to a fractional interest only in the real estate involved, and (ii) the taxes of this fractional interest plus the taxes of all other fractional interests may or may not equal the taxes of the entire fee simple estate considered as a whole.
5. If this report contains a tax estimate relating to a geographical portion of a larger parcel or tract of real estate, then (i) the taxes projected for such geographical portion relates to such portion only and should not be construed as applying with equal validity to other portions of the larger parcel or tract, and (ii) the taxes projected for such geographical portion plus the taxes of all other geographical portions may or may not equal the taxes of the entire parcel or tract considered as an entity.
6. The subject property is assumed to have been held under responsible ownership and competent management, unless otherwise specifically stated. In the absence of a statement herein to the contrary, it is assumed that such quality ownership and management will continue for the remaining economic and useful life estimated therefor.
7. It is assumed that there are no hidden or unapparent conditions of the Property, subsoil or structures that could affect the Property. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
8. It is assumed that the property is in full compliance with all applicable federal, state, county, local and any other applicable regulations and laws, ordinances, building standards, use restrictions, environmental regulations and restrictions, and zoning, unless noncompliance is stated, defined and considered in the Report. Determining and reporting on such compliance were not part of the scope of work for this assignment.
9. It is assumed that all water, sewer and/or septic facilities and utilities (whether existing or proposed) are or will be in good working order, are safe for use, and are or will be sufficient to serve the current or proposed uses of the subject property or any structures or other uses or improvements. Determining and reporting on such matters were not part of the scope of work for this assignment.
10. Unless otherwise stated in this Report, the past or current existence of hazardous materials or environmental contamination on, below or near the subject property was not observed or known by us. We have no knowledge of the existence of such materials or contamination on or in the property. We are, however, is not qualified to detect such substances or to make determinations about their presence. The presence of substances such as asbestos, urea-formaldehyde foam insulation, radon gas and other potentially hazardous materials or environmental contamination may affect the property. Unless otherwise stated, the conclusions reached herein are predicated on the assumption that there is no such material on, below or affecting the property that would cause any impact thereon. Additionally, unless otherwise stated,

the conclusion(s) reached is predicated on the assumption that there is no impact related to stigma associated with hazardous materials, environmental contamination or any other issues. No responsibility is assumed for such conditions or for any expertise or engineering assistance required to discover them. The user of this report is urged to retain an expert in this field, if desired.

11. It is assumed that all required licenses, certificates of occupancy and other governmental consents have been or can be obtained and renewed for any use on which the opinion(s) contained in the Report is based.
12. Any representation, indication, and/or description herein as to the physical condition and/or content of the unseen, underlying land or the indiscernible improvements included in this Report is intended solely as an expression of the general visual impression gained by us upon inspection of the property. No representation is made as to any technical and/or engineering expertise of such observations, and no technical and/or engineering professional responsibility is assumed therefor, or for any conditions not observable or specifically mentioned herein.
13. The physical condition of the improvements, if any, considered by the Report is based on visual inspection by us or other person identified in the Report. Hudson Property Advisors, LLC assumes no responsibility for the soundness of structural members of the improvements, or for the condition of mechanical equipment, plumbing or electrical components. We are not an expert in the field of structural integrity of the improvements or of mechanical equipment, plumbing or electrical components.
14. Any sketch(s), map(s), drawing(s), and/or diagram(s) prepared by us and included in this report have been offered only for the purpose of providing visual assistance. No engineering survey or analysis of the property has been made by us, and no responsibility is assumed in connection therewith.
15. To the extent, if any, that information, estimates, and/or opinions have been obtained from others, and to the extent, if any, that such information, estimates, and/or opinions have been utilized and/or included herein, the source(s) of such information, estimates, and/or opinions may be deemed to have been sound, responsible, and reliable. However, no responsibility or liability therefor is assumed by us.
16. The projected financial information (such as, but not necessarily limited to potential gross income and expenses) referred to in the Report may be based on lease summaries, lease abstracts or other financial information provided by the owner, client or third parties. Hudson Property Advisors, LLC assumes no responsibility for the authenticity or completeness of such information provided by others and recommends that legal and/or accounting advice be obtained regarding the interpretation of financial statements, lease provisions and the contractual rights of parties.
17. Possession of this report, or a copy thereof, does not confer any right of disclosure as to the conclusions, identity of the preparer, or any part of the contents hereof, or of publication, nor may it be used for any purpose by anyone other than the submitter without our prior written consent, and then only subject to such qualification(s) as may be imposed in connection therewith. Exception to this condition is granted for reports submitted to any court of competent jurisdiction, or other duly constituted official body by, or on behalf of the submitter, pursuant to duly instituted legal proceedings.
18. Any authorized user(s) of this Report who provides a copy to, or permits reliance thereon by, any person or entity not authorized by Hudson Property Advisors, LLC, in writing to use or rely thereon, hereby agrees to indemnify and hold Hudson Property Advisors, LLC, its affiliates and their respective shareholders, directors, officers and employees, harmless from and against all damages, expenses, claims and costs, including attorney's fees, incurred in investigating and defending any claim arising from or in any way connected to the use of, or reliance upon, the Report by any such unauthorized person(s) or entity or entities.
19. All conclusions rendered within this report assume normal marketing times unless otherwise indicated.
20. In arriving at the conclusion(s) set forth in this report no consideration has been given to the effect of state, local or federal income and gains taxes, or of occupancy, hotel, capital levy, gift, estate, succession, inheritance, or similar taxes, which may be imposed upon any owner, lessee or mortgagee, by reason of any sale, conveyance, transfer, leasing, hypothecation, mortgage, pledge or other disposition of the property.

21. This report expresses an opinion as of the date of preparation. It is supplied at the request of the submittee and, unless otherwise stated, is for the submittee's exclusive use. It is not a guarantee. Neither Hudson Property Advisors, LLC, nor any of its officers or employees has made any representation or warranty regarding this report. Since real estate consulting is not an exact science, this report constitutes only the best professional opinion of this company and the person(s) who signed this report. Hudson Property Advisors, LLC is under no circumstances responsible for differences in conclusion(s) or results which could occur as the result of repeated expertise and/or the use of standards, norms, methods or criteria other than those employed by Hudson Property Advisors, LLC.
22. The opinions and or conclusions reached herein are only effective as of the date stated in the Report. Changes either before or after the effective date in external and market factors or in the Property itself can significantly affect the conclusions.
23. In the event of a claim against Hudson Property Advisors, LLC, or its affiliates or their respective officers, owner(s) or employees or staff in connection with or in any way relating to this Report or this engagement, the maximum damages recoverable by Client shall be limited to the amount of the fee actually collected by Hudson Property Advisors, LLC or its affiliates for this Report and under no circumstances shall any claim for consequential damages be made.
24. The Americans with Disabilities Act ("ADA") became effective January 26, 1992. We have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the property. Since we have no direct evidence relating to this issue, we did not consider possible noncompliance with the requirements of the ADA in this analysis.
25. The liability of Hudson Property Advisors, LLC, Jonathan Bernz and all signers, is limited to the client only and limited to the amount of fee actually received by Hudson Property Advisors, LLC. Further, there is no accountability, obligation or liability expressed or implied to any third party.
26. In the event that Client utilizes or submits HPA's (Hudson Property Advisors, LLC) report(s) or other work product in connection with a tax return or any other tax matter, Client understands, agrees and acknowledges that HPA and its Personnel provide no warranty, representation or prediction as to the outcome of the tax matter, regardless of whether the tax matter is Federal, State or local or whether the tax matter relates to income tax property tax or any other tax. Client understands, agrees and acknowledges that the taxing authority (whether it is the Internal Revenue Service or any federal, state or local tax authority) may disagree with or reject the conclusion(s) reached herein or work product or otherwise disagree with Client's tax position. Client further understands, agrees and acknowledges that the taxing authority may seek to collect from Client additional taxes, interest, penalties or fees. Client agrees that HPA and its personnel shall have no responsibility to liability to Client or any other party for any such taxes, interest, penalties or fees, and Client will not seek damages or other compensation from HPA or its Personnel relating to any taxes, interest, penalties or fees imposed on Client or for any attorney's fees, costs or other expenses relating to Client's tax matter. These limitations of liability and damages restrictions shall be in addition to any other limitations and restrictions stated in this agreement or in the report. Further, these limitations of liability are an express condition of this assignment. HPA's Personnel are intended third-party beneficiaries of this section.
27. Use of or reliance on this Report, regardless of whether such use or reliance is known or authorized by Hudson Property Advisors, LLC, constitutes acknowledgement and acceptance of these general assumptions and limiting conditions, any assumptions, extraordinary or otherwise or conditions, hypothetical or otherwise, and any other terms and conditions stated in this Report.
28. This report provides real estate tax consulting services only. The report is not intended to provide legal, accounting, appraisal, engineering or income taxation advice or services.

29. Except as stated herein, we have not: (i) examined any other agreements, contracts, deeds, instruments or documents; (ii) examined any books or records related to the property; nor (iii) made or conducted any due diligence or other enquiries or investigations concerning the property.
30. For the purposes of this opinion, we have assumed (without any investigation or verification the authenticity and completeness of all documents submitted to us as originals or conformed copies, the conformity to originals of all documents submitted to us as copies or received by (or as an attachment to an) e-mail or facsimile transmission and the authenticity and completeness of the original documents of which such copies, conformed copies or facsimiles have been supplied.
31. For the purposes of this opinion, we have assumed (without any investigation or verification the genuineness of all signatures and stamps to all documents reviewed and that all signatures which purport to have been attested were made in the presence of the purported witness(es).



About HPA

Hudson Property Advisors, LLC is a leading real estate consulting firm providing appraisal and advisory services in the greater New York Metropolitan area. With over 35 years of experience, the firm's management earned a regional reputation advising institutions, governments and private clients on a wide range of real estate valuation matters.

Hudson Property Advisors, LLC is a privately owned company providing professional real estate consulting, appraisal and advisory services in the greater New York metropolitan area. The firm is owned by Jonathan Bernz, MAI. Since 1983, Mr. Bernz has been engaged exclusively in the appraisal, consultation and analysis of commercial, industrial, large scale residential, and other property types. Prior to forming Hudson Property Advisors in 2007, Mr. Bernz served as Vice President of one of the largest privately owned appraisal companies in New York's lower Hudson Valley.

Mr. Bernz has over 35 years of professional experience and presently holds the MAI designation from the Appraisal Institute and certified general real estate appraisal licenses in New York and Connecticut. Primary professional territory includes the following areas:

- New York City, NY
- Westchester County, NY
- Putnam County, NY
- Dutchess County, NY
- Rockland County, NY
- Orange County, NY
- Fairfield County, CT
- Litchfield County, CT

In addition to the areas cited above, Mr. Bernz completed assignments in northern New York State as well as in other markets, including properties in Arizona, California, Colorado, Connecticut, Florida, Kentucky, Massachusetts, Michigan, New Jersey, Texas and the U.S. Virgin Islands.

#

From: charwoodward@optonline.net
To: [Mercedes Perez](#)
Subject: 925 Wolcott
Date: Monday, November 20, 2023 6:09:52 PM

Hi,

Below is a correction that I am submitting. Thank you in advance!

Charlotte Woodward

November 20, 2023

Zoning Board of Appeals, City of Beacon

1 Municipal Plaza

Beacon, New York 12508

RE: 925 Wolcott Avenue: Correction

Dear Chairman Haug and the Members of the Zoning Board of Appeals:

In my letter of November 18, 2023, I incorrectly interpreted the 1,978 square foot per unit referenced (**page 6 of Mr. Taylor's letter of 10/31/23**) as being the size of each apartment in the proposal. That's where I calculated a 17,805.6 square foot building. Instead that number appears to be the size of the .41 acre lot.

I respectfully submit the following **corrections** to the aforementioned letter be made. The starred references should be deleted and paragraph 2 should read.

The applicant, Yeshia Berger of Monroe, NY has requested

variances that do not adhere to Beacon's Area and Use Standards. His proposed construction of an SRO or multifamily (apartment) building in this school neighborhood are two different scenarios, both of which violate the R1-10 zoning code. A rebuilding of anything other than a single- family home would likely be substantial.

Thank you for your understanding.

Respectfully submitted,

Charlotte Woodward

821 Wolcott Avenue

Beacon, New York 12508

P.S. I am disappointed to read that the applicant has received approval for a second adjournment.

From: [Roman Safiullin](#)
To: [Mercedes Perez](#)
Subject: Objection to Requested Variance for 925 Wolcott Avenue
Date: Tuesday, November 21, 2023 3:39:34 PM

Hi Mercedes, I wanted to send the following message to the planning board ahead of today's meeting. If possible, please include it:

Dear Members of the Planning Board,

I am writing as a concerned Beacon resident to express my strong opposition to the variance requested by 925 Wolcott LLC for the property at 925 Wolcott Avenue. This issue transcends mere zoning regulations; it is a matter of preserving the essence and safety of our community.

925 Wolcott LLC, an external developer with no roots in our town, is attempting to overhaul a single-family zone with a large, nine-unit apartment complex. This is in direct violation of our City's Nonconforming Use Zoning Code. Such a development would not only disrupt the character of our neighborhood but also pose significant safety risks in an already congested area near Sargent School and community soccer fields.

It is also critical to address the developer's attitude towards our community. 925 Wolcott LLC has shown little regard for the stewardship of the property and has been reactive rather than proactive in addressing community concerns. Their threat of a lawsuit if the variances are not approved is a blatant attempt to bully our town into submission. This aggressive tactic is not only disrespectful, but also undermines the principles of community-led planning.

As residents, we stand united in our resolve not to be intimidated by such tactics. Our commitment to the safety, integrity, and character of our neighborhood is unwavering. We have consistently voiced our concerns and attended meetings for the past six months to demonstrate our collective opposition to this development.

In light of these considerations, I urge the Planning Board to firmly reject the requested variances. We must stand together against external pressures that seek to prioritize profit over the well-being of our community. Our town's future should be shaped by its residents, not by the financial interests of an out-of-town developer.

Thank you for your commitment to Beacon and for considering the voices of its residents in your deliberations.

Sincerely,
Roman Safiullin

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tel: +1.407.496.6446

www.romansafiullin.com