



CITY OF LACKAWANNA
OFFICE OF CODE ENFORCEMENT

714 Ridge Road – Room 311
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866



Agenda Checklist
Zoning Board of Appeals ✓
Planning and Development Board

Agenda item SHED

Property address 49 HIGHVIEW CIRCLE

Zone SINGLE FAMILY RESIDENTIAL

Use variance needed? Yes/ No

Description of use variance (not allowed in that zone) ✓

Area variance needed? Yes / No

Description of area variances needed (Parking/ height ect...) TO BE ABLE TO BUILD A 10x20 SHED ON REAR PROPERTY LINE.

Description of agenda use? ASKING FOR A 25 FOOT VARIANCE TO BUILD ASHED.

Code enforcement research (attached if applicable) YES

Legal opinion/ research (attached if applicable) NO.

Scott Hayes
Code Enforcement Officer



**CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT**

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866



APPLICATION
TO THE CITY OF LACKAWANNA
ZONING BOARD OF APPEALS

Date: 7/11/2024

Application No. _____

Application Fee:

Land Use Variance
 Zoning Law Appeal

Fee
\$ 250.00
\$ 250.00

Property Address: 49 Highview Circle

S.B.L. No. 151.06-3-42

Description of Action to be Appealed: _____

Variance to place shed @ rear
Property line 10X20

APPLICATION IS HEREBY MADE to the City of Lackawanna Zoning Board of Appeals for a Land Use Variance and/or Zoning Law Appeal as required by the Municipal Code of the City of Lackawanna. The applicant hereby agrees to comply with all applicable laws, rules, ordinances and regulations.

Director of Development

Geraldine Parry
Name of Applicant

Geraldine Parry
Signature of Applicant

49 Meghaniv Circle
Address of Applicant

Applicant Phone No.

Applicant's Email

Role of Applicant to Project
(owner, attorney, lessee, agent,
architect, engineer, contractor...)

Property Owner:

NAME: Geraldine Parry

Address: 49 Meghaniv Circle
Blasdell, N.Y. 14219

Director of Development



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866



City of Lackawanna Criteria for an Area Variance

(All applicants must answer questions below when an Area Variance is sought)

Before the Zoning Board of Appeals may grant an Area Variance the Applicant must provide proof of, and the ZBA must consider the following:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
 - (3) whether the requested area variance is substantial;
 - (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
- (c) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

In order to establish the above please complete the questions below (Please feel free to use additional pages if necessary):

Property Address 49 Neighview Circle

1. What facts support that the applicant cannot realize a reasonable return?
None

2. Why should the ZBA determine the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood?
Not unique matching other neighbor

3. Will the use variance, if granted, alter the essential character of the neighborhood?
No matches other neighbor's shed / garage placement

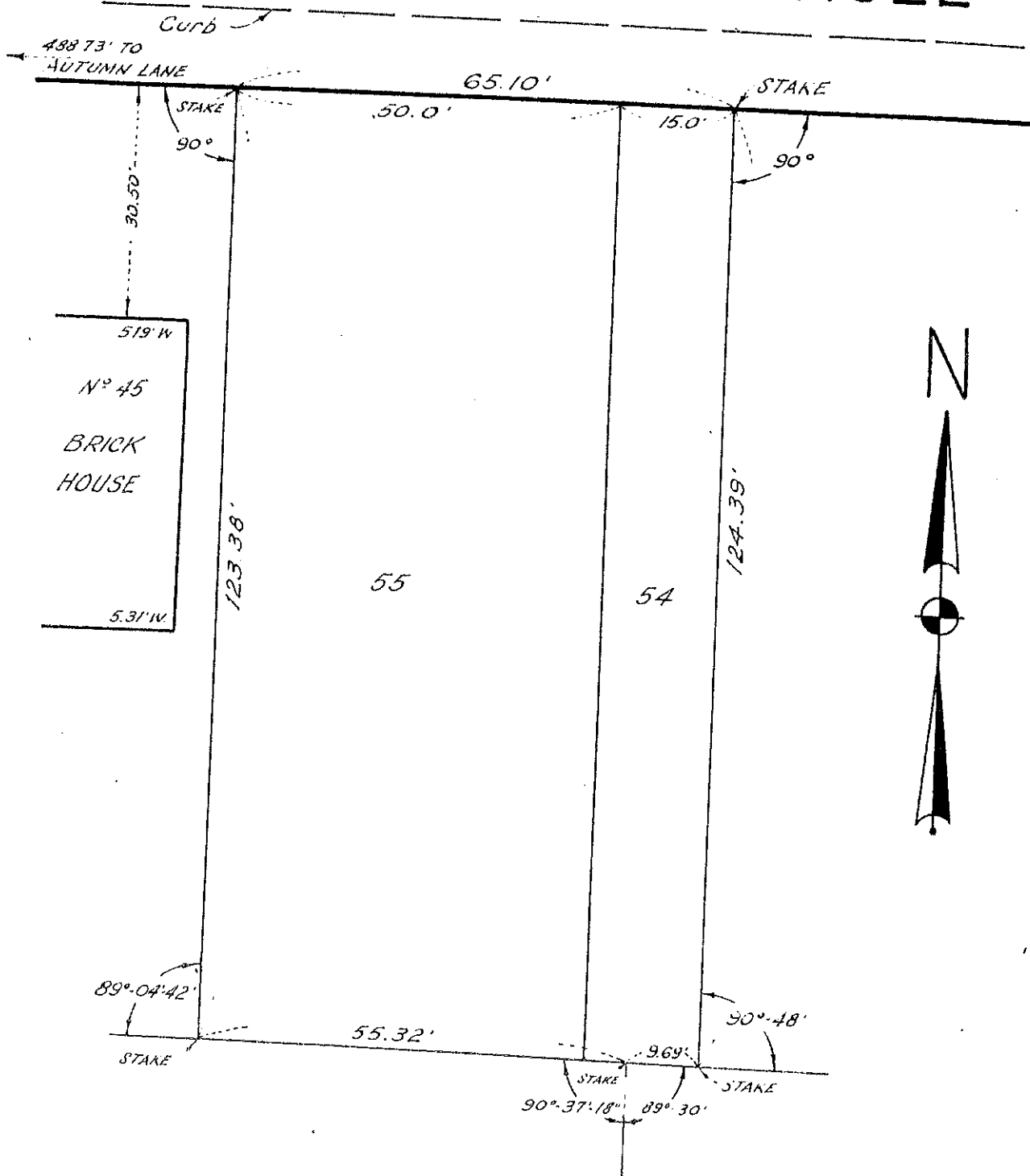
4. Will the proposed area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
NO

5. Is the alleged hardship self-created?

NO

Geraldine Pariz
Sign Application and Print Name Below
GERALDINE PARIZ

HIGHVIEW (50.0' WIDE) CIRCLE



SUB LOT 55 &
15.0' OF SUB LOT 54
COVER 2214
CITY OF LACKAWANNA
ERIE COUNTY, N.Y.

We hereby certify that this survey was prepared
accordance with current standards adopted by
the Niagara Frontier Land Surveyors Association and
the Bar Association of Erie County (New York).

IGNACE S. BASINSKI

LAND SURVEYOR

103 FRONTIER DRIVE, BUFFALO 19, N. Y.

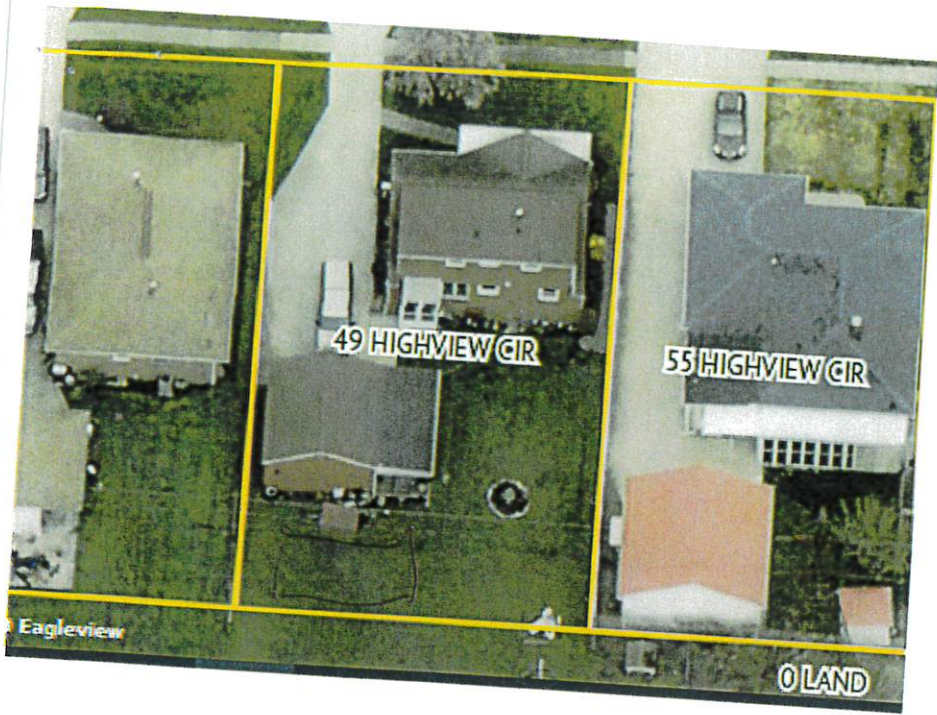
SCALE 1" = 20'

DATE APRIL 14, 1967

JOB 4329

SHEET 2-F 4508

SULLIVAN MCKEEGAN CO., INC., BUFFALO CIRBL CRYSTALINE TRACING PAPER 1000-3.64



NY Private Lands

PARYZ GERALDINE B LIFE USE

Overview Hunt Unit Content

NY Private Lands

Owner
PARYZ GERALDINE B LIFE USE

Secondary Owner
PARYZ GREGORY M

Tax Address
49 HIGHVIEW CIR BLASDELL NY 14219

County
Erie

Area (Acres)
.18

Coordinates 42.80581, -78.81889 **Copy**

Elevation 600 ft





CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

Application Notice

July 19, 2024

Geraldine Paryz
49 Highview Cir
Blasdell, NY 14219

Re: 49 Highview Cir

The above item has been placed on the agenda for the next scheduled meeting of the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna.

Planning and Development Board

Zoning Board of Appeals

Date:

Date: July 30, 2024

Time:

Time: 5:00pm

City Council Chambers Room 241
Lackawanna City Hall

If you have any questions please feel free to call 827-6474

Boarding Neighbors
Roxine Young- 55 Highview
Jason Harned- 45 Highview



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

Bordering Property Notice

Dear Sir or Madam:

As an adjoining property owner in the City of Lackawanna, you are hereby notified that a neighbor has made application to the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna as follow;

- | | |
|----------------------------------|-----------------------------|
| 1. _____ Site Plan Review | 2. _____ Special Use Permit |
| 3. _____ Development Plan Review | 4. <u> X </u> Variance |
| 5. _____ Zoning Law Appeals | |

Property owner: Geraldine Paryz

Address: 49 Highview Cir

In reference to: Requesting variance for shed

You are entitled to appear at the public hearing scheduled for **7/30/24@ 5:00pm** in Council Chambers at Lackawanna City Hall to express your support or opposition to the granting of said application.

Communications, relating to the application, may be filed with the appropriate Board before the meeting by writing to:

Planning & Development Board/Zoning Board
Department of Development
714 Ridge Road, Room 309
Lackawanna, NY 14218

If you have any questions regarding the meeting, please call 716-827-6474

PLANNING AND DEVELOPMENT BOARD, CITY OF LACKAWANNA
ZONING BOARD OF APPEALS, CITY OF LACKAWANNA



CITY OF LACKAWANNA OFFICE OF CODE ENFORCEMENT

714 Ridge Road – Room 311
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Tel: (716) 827-6474 Fax: (716) 827-1866



Agenda Checklist
Zoning Board of Appeals ✓
Planning and Development Board

Agenda item BASEMENT EGRESS WINDOW

Property address 90 BRINKER.

Zone SINGLE FAMILY RESIDENTIAL

Use variance needed? Yes No

Description of use variance (not allowed in that zone) _____

Area variance needed? Yes No

Description of area variances needed (Parking/ height ect...) CODE MINIMUM SIDE YARD.

IS 10 FEET IN SINGLE FAMILY RESIDENTIAL, WOULD LIKE A VARIANCE TO BUILD EGRESS WINDOW.

Description of agenda use? NEW EGRESS WINDOW.

Code enforcement research (attached if applicable) YES

Legal opinion/ research (attached if applicable) NO

Scott Hayes
Code Enforcement Officer



CITY OF LACKAWANNA DEPARTMENT OF DEVELOPMENT

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866



APPLICATION TO THE CITY OF LACKAWANNA ZONING BOARD OF APPEALS

Date: 7/3/24

Application No. _____

Application Fee:

Fee

Land Use Variance

\$ 250.00

Zoning Law Appeal

\$ 250.00

Property Address: 90 Brinker

S.B.L. No. _____

Description of Action to be Appealed: We are trying to obtain a variance to modify the setback requirement so that we can install an Egress Window at the side of the House.

APPLICATION IS HEREBY MADE to the City of Lackawanna Zoning Board of Appeals for a Land Use Variance and/or Zoning Law Appeal as required by the Municipal Code of the City of Lackawanna. The applicant hereby agrees to comply with all applicable laws, rules, ordinances and regulations.

Director of Development

Daniel Egan
Name of Applicant

Daniel Egan
Signature of Applicant

950A Union Rd W Seneca
Address of Applicant

13155025@comcast.net
Applicant's Email

Applicant Phone No.

Contractor
Role of Applicant to Project
(owner, attorney, lessee, agent,
architect, engineer, contractor...)

Property Owner:

NAME: Michael Durand

Address: 90 Brinker

Lackawanna, NY 14218



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866



City of Lackawanna Criteria for an Area Variance

(All applicants must answer questions below when an Area Variance is sought)

Before the Zoning Board of Appeals may grant an Area Variance the Applicant must provide proof of, and the ZBA must consider the following:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
 - (3) whether the requested area variance is substantial;
 - (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
- (c) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

In order to establish the above please complete the questions below (Please feel free to use additional pages if necessary):

Property Address 90 Brinker

1. What facts support that the applicant cannot realize a reasonable return?

There is not enough space between the house and their property line to install a well for the Egress Window

2. Why should the ZBA determine the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood?

The neighborhood where this house is located is mature every lot has a house on it. None of the houses in this neighborhood are built with an egress

3. Will the use variance, if granted, alter the essential character of the neighborhood?

No it will not. The Egress Well is at the side of the house and only extends above the ground approx. 4".

4. Will the proposed area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

No it will not.

5. Is the alleged hardship self-created?

The hardship is in no way created by
the Homeowner.

David Egan

Sign Application and Print Name Below

David Egan



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

July 19, 2024

Application Notice

Michael Durand
90 Brinker Rd
Lackawanna, NY 14218

Re: 90 Brinker Rd

The above item has been placed on the agenda for the next scheduled meeting of the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna.

Planning and Development Board

Zoning Board of Appeals

Date:

Date: July 30, 2024

Time:

Time: 5:00pm

City Council Chambers Room 241
Lackawanna City Hall

If you have any questions please feel free to call 827-6474

Boarding Neighbors
Thomas Tutaro- 96 Brinker
Hoda Saeed- 84 Brinker



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

Application Notice

July 19, 2024

Daniel Egan
950A Union Rd
West Seneca, NY 14224

Re: 90 Brinker Rd

The above item has been placed on the agenda for the next scheduled meeting of the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna.

Planning and Development Board

Zoning Board of Appeals

Date:

Date: July 30, 2024

Time:

Time: 5:00pm

City Council Chambers Room 241
Lackawanna City Hall

If you have any questions please feel free to call 827-6474

Boarding Neighbors
Thomas Tutaro- 96 Brinker
Hoda Saeed-.84 Brinker



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

Bordering Property Notice

Dear Sir or Madam:

As an adjoining property owner in the City of Lackawanna, you are hereby notified that a neighbor has made application to the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna as follow;

- | | |
|----------------------------------|-----------------------------|
| 1. _____ Site Plan Review | 2. _____ Special Use Permit |
| 3. _____ Development Plan Review | 4. <u> X </u> Variance |
| 5. _____ Zoning Law Appeals | |

Property owner: Daniel Eagan

Address: 90 Brinker Rd

In reference to: Requesting variance for egress window

You are entitled to appear at the public hearing scheduled for **7/30/24@ 5:00pm** in Council Chambers at Lackawanna City Hall to express your support or opposition to the granting of said application.

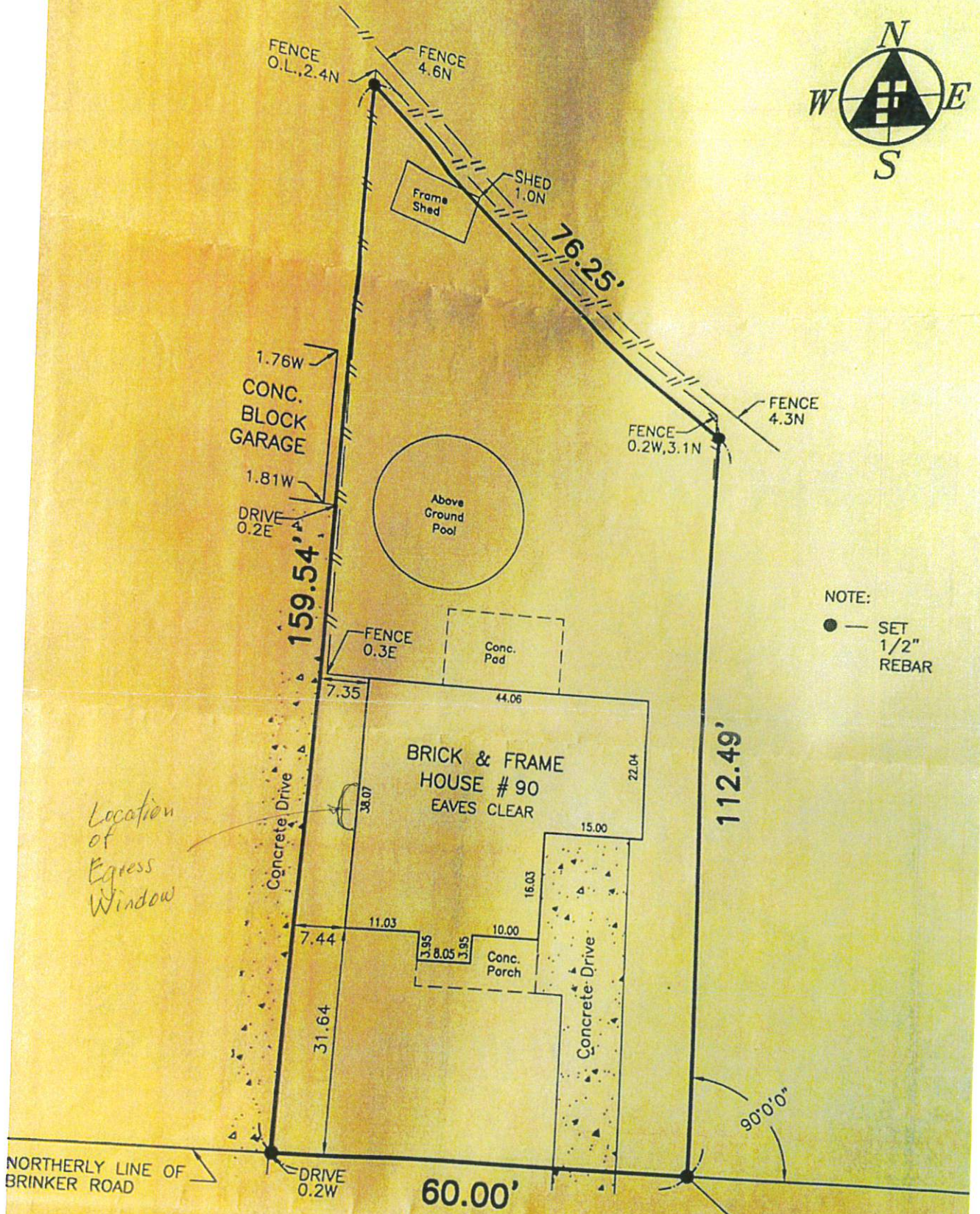
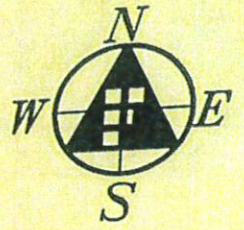
Communications, relating to the application, may be filed with the appropriate Board before the meeting by writing to:

Planning & Development Board/Zoning Board
Department of Development
714 Ridge Road, Room 309
Lackawanna, NY 14218

If you have any questions regarding the meeting, please call 716-827-6474

PLANNING AND DEVELOPMENT BOARD, CITY OF LACKAWANNA
ZONING BOARD OF APPEALS, CITY OF LACKAWANNA

0.92 - 10"
1.00 - 11"
1.00 - 12"



NOTE:
● — SET 1/2" REBAR

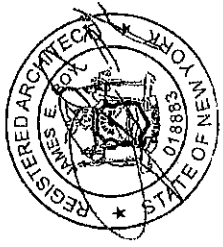
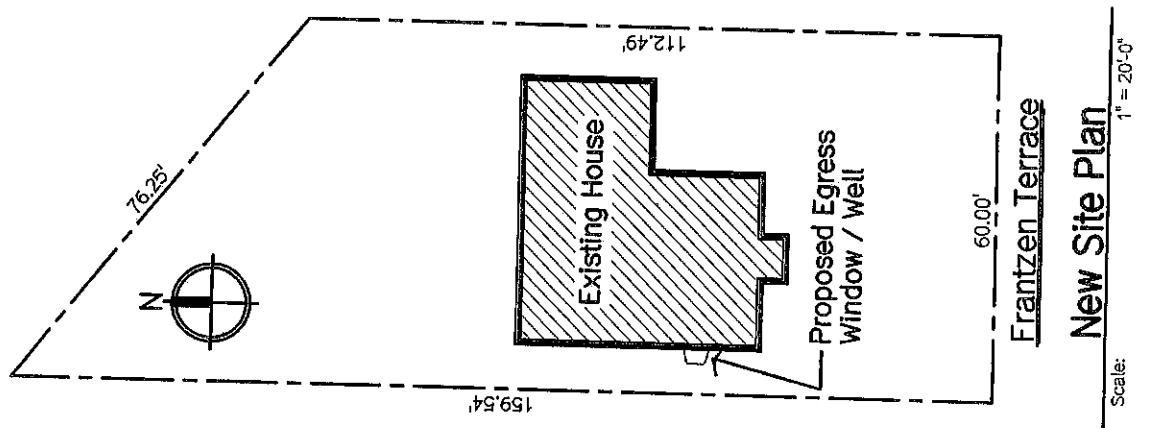
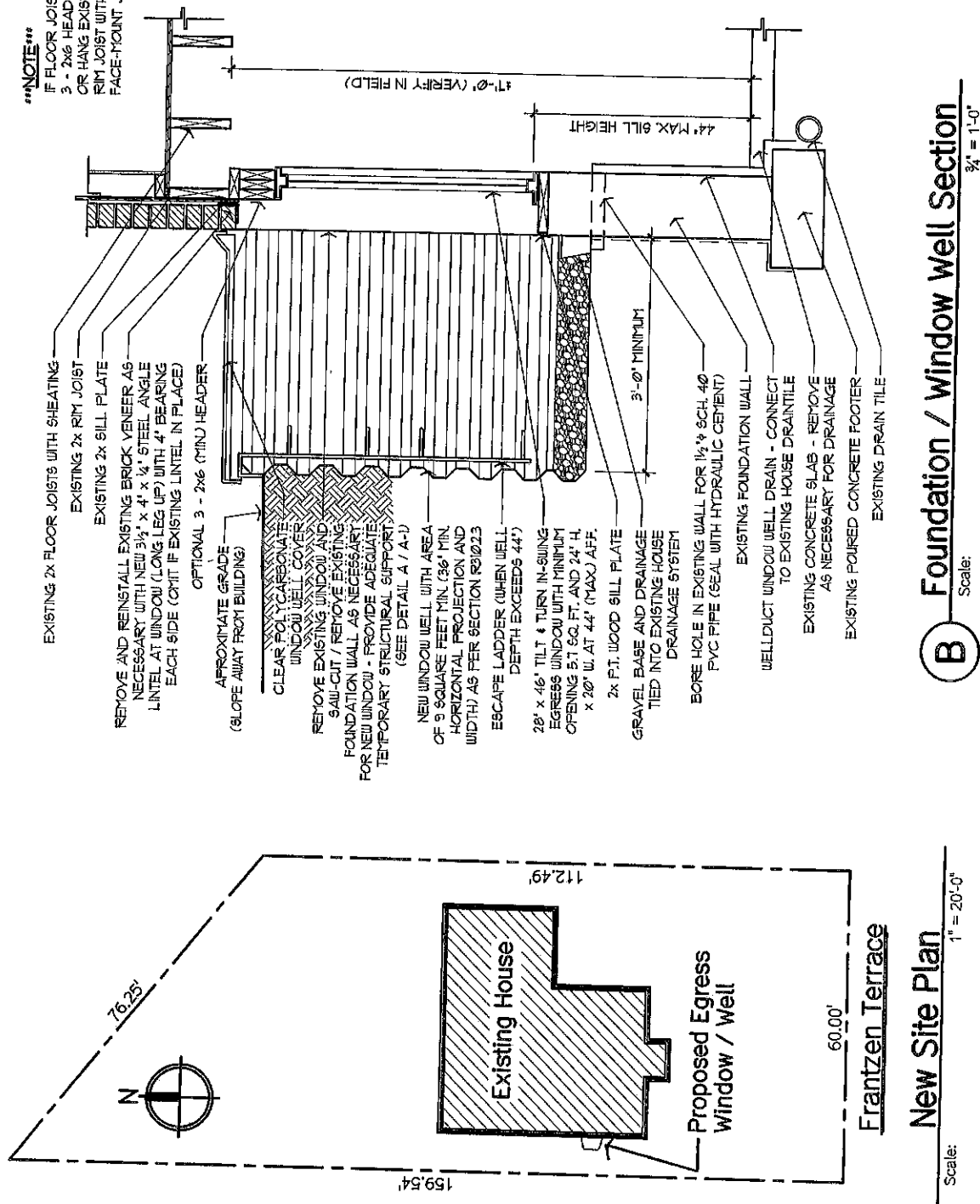
BRINKER (60' WIDE) ROAD

Y OF LACKAWANNA

SCALE:

SPW

*****NOTE*****
 IF FLOOR JOISTS BEAR ON THIS WALL, USE
 3 - 2x6 HEADER ABOVE NEW EGRESS WINDOW,
 OR HANG EXISTING FLOOR JOISTS FROM EXISTING
 RIM JOIST WITH SIFPSON STRONG-TIE LUS28
 FACE-MOUNT JOIST HANGERS



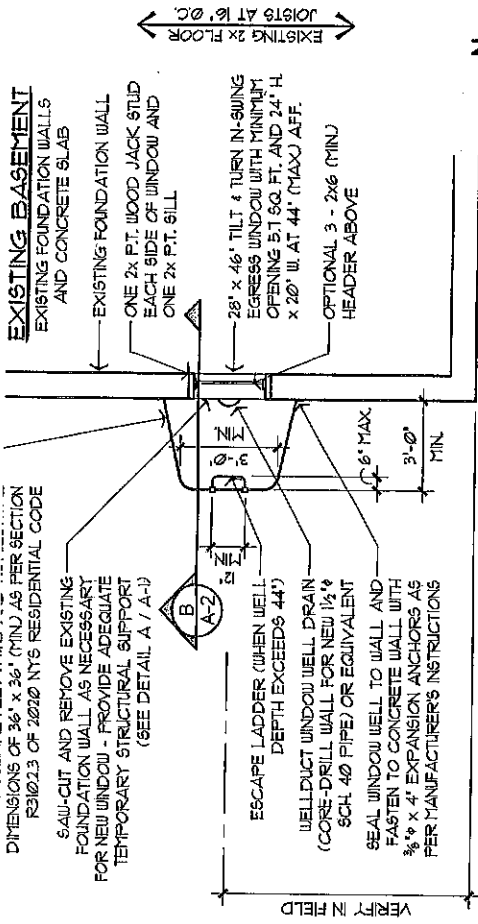
Project: New Basement Egress Window 90 Brinker Road Lackawanna, NY 14218		JAMES E. BOY ARCHITECTS 124 LINDEN AVENUE KENMORE, NY 14217 PHONE: (716) 863-1388 CONTACT: FRANK FRINGER (716) 650-0749	
Sheet Title: New Egress Window Well Section		Date: March 25, 2024 Project No.: 23-2606 Drawing No.: A-2	
Scale: As Noted Revision:			

B Foundation / Window Well Section
 Scale: 3/4" = 1'-0"

New Site Plan
 Scale: 1" = 20'-0"

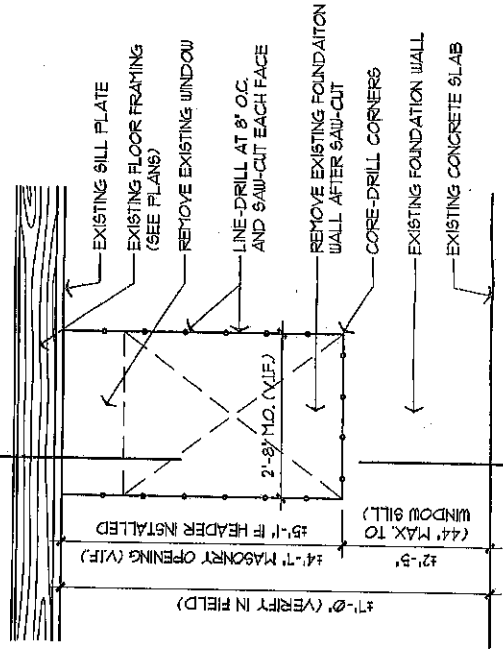
PROJECT RULES

- All work is to be coordinated with the owner. The contractor is to meet with the owner prior to construction.
- Contractor shall keep the job free of debris and make final cleanup to the satisfaction of the owner. Contractor shall be responsible for removal of all construction debris from the project site and shall provide dumpsters etc. as required. Remove all debris on a daily basis.
- Contractor shall be responsible for the protection of all existing buildings and other installations that are to remain intact while performing the specified work. Provide and maintain fire extinguishers on project site during construction.
- Unless indicated otherwise, all material furnished & incorporated into the work shall be new, unused and of quality standard to the industry for first class work of similar nature and character. Install all materials to the manufacturer's recommendations and best standard of the trades involved.
- Remove all existing constructions and finishes necessary for the completion of the work as depicted on the drawings, including but not limited to, items shown on the plans with dashed lines. Necessary disconnects and alterations to existing mechanical and electrical systems shall be included. Patch as required all constructions to remain in accordance with the contract drawings. Where contractor is designated to make removals, disposition of materials is the responsibility of the contractor. Verify with owner, the disposition and removal of any components of salvageable value.
- Do not scale drawings
- Sections, details materials, methods, etc., shown and/or noted on the drawings shall apply to all similar locations unless otherwise noted.
- All wood in contact with concrete or masonry shall be pressure treated.
- Contractor shall verify dimensions of all masonry and rough openings with manufacturers of materials or equipment to be installed. Notify owner's representative of any discrepancies prior to construction.
- Caulking - at all exterior joints, openings, between wall and foundation, etc. (weather stripping)
- Provide sealant at all joints in different materials.
- While every attempt has been made in the preparation of these documents to avoid mistakes, the maker cannot guarantee against the possibility of human error. The builder or contractor on the job must check and verify all dimensions and other details of these drawings prior to construction & be responsible for them.
- The makers of these documents are not responsible for or have control of means, methods, & techniques of construction or responsible for the actions of the contractor or the actions of the contractor's sub-contractors.
- Visit the site to verify existing conditions. Existing concealed conditions and connections are based upon information taken from limited field investigations. Contractor shall make required adjustments to system components as necessitated by actual field conditions at no additional cost to owner or engineer. Report any discrepancies between the drawings and actual field conditions to the architect before construction begins.



Partial Basement Plan

Scale: 1/4" = 1'-0"



Rough Opening Detail

Scale: 1/2" = 1'-0"



- PLANS CONFORM TO 2020 RESIDENTIAL CODE OF NEW YORK STATE.
- DIMENSIONS SHOWN ARE NOMINAL AND MAY BE MODIFIED TO FIT FIELD CONDITIONS.
- ALL EXISTING CONSTRUCTION TO COMPLY WITH SECTIONS A-4 (REPAIRS), A-5 (ALTERATION - LEVEL 1) AND A-6 (ALTERATION - LEVEL 2) OF APPENDIX J OF THE 2020 NYS RESIDENTIAL CODE.
- PROVIDE ADEQUATE TEMPORARY STRUCTURAL SUPPORT OF FLOOR ABOVE WHEN REMOVING FOUNDATION WALL.
- EGRESS WINDOWS TO HAVE OPENING HEIGHT OF 24" WIDTH OF 20" AND AREA OF 5.1 SQUARE FEET AND WINDOW SILL AT 44" (MAX) ABOVE FINISHED FLOOR.
- IF FLOOR JOISTS BEAR ON THIS WALL, USE 3 - 2x6 HEADER ABOVE NEW EGRESS WINDOW, OR HANG EXISTING FLOOR JOISTS FROM EXIST. RIM JOIST WITH SIMPSON STRONG-TIE LU528 FACE-MOUNT JOIST HANGERS



Project: New Basement Egress Window 90 Brinker Road Lackawanna, NY 14218	
JAMES E. BOY ARCHITECTS 124 LINDEN AVENUE KENMORE, NY 14217 PHONE: (716) 865-1380 CONTACT: JAMES E. BOY ARCHITECTS (716) 865-0748	
Sheet Title: New Egress Window Plan, Detail and Project Notes	Date: March 25, 2024
Project No.: 23-2606	Drawing No.: As noted
Scale: As noted	Revision: A-1



**CITY OF LACKAWANNA
OFFICE OF CODE ENFORCEMENT**

714 Ridge Road – Room 311
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866



Agenda Checklist
Zoning Board of Appeals ✓
Planning and Development Board

Agenda item 6 FOOT TALL FENCE TO BE INSTALLED IN FRONT YARD.

Property address 56 MADISON

Zone SINGLE FAMILY RESIDENTIAL

Use variance needed? Yes No

Description of use variance (not allowed in that zone) _____

Area variance needed? Yes No

Description of area variances needed (Parking/ height ect...) OUR CODE ONLY ALLOW'S 3 FOOT HEIGHT IN A FRONT YARD. PROPERTY IS A CORNER LOT, BOTH SIDES ARE CONSIDERED FRONT YARDS.

Description of agenda use? HEIGHT VARIANCE FOR 6 FOOT TALL FENCE. ON BEECH ST TO INCLOSE A TEMPORARY POOL.

Code enforcement research (attached if applicable) YES

Legal opinion/ research (attached if applicable) YES

Scott Hayes
Code Enforcement Officer



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

714 Ridge Road – Room 309
 Lackawanna, NY 14218
 Tel: (716) 827-6421 Fax: (716) 827-1866



APPLICATION
 TO THE CITY OF LACKAWANNA
 ZONING BOARD OF APPEALS

Date: 7-8-24

Application No. _____

Application Fee:

	Fee
<input checked="" type="checkbox"/> Land Use Variance	\$ 250.00
<input type="checkbox"/> Zoning Law Appeal	\$ 250.00

Property Address: 56 Madison Ave

S.B.L. No. 141,830-2-11

Description of Action to be Appealed: I would like to put up a six foot High privacy fence to enclose the swimming pool. For the safety of the neighborhood, children and to comply with the city code

APPLICATION IS HEREBY MADE to the City of Lackawanna Zoning Board of Appeals for a Land Use Variance and/or Zoning Law Appeal as required by the Municipal Code of the City of Lackawanna. The applicant hereby agrees to comply with all applicable laws, rules, ordinances and regulations.

Director of Development

Anthony Caterza
Name of Applicant

[Signature]
Signature of Applicant

21 Beech St
Address of Applicant

Applicant Phone No.

Applicant's Email

Role of Applicant to Project
(owner, attorney, lessee, agent,
architect, engineer, contractor...)

Property Owner:

NAME: Anthony Caterza

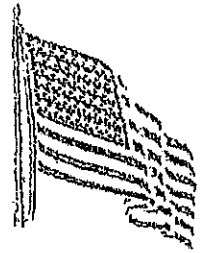
Address: 21 Beech St

Laurelwood



**CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT**

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-8474 Fax: (716) 827-1866



City of Lackawanna Criteria for an Area Variance

(All applicants must answer questions below when an Area Variance is sought)

Before the Zoning Board of Appeals may grant an Area Variance the Applicant must provide proof of, and the ZBA must consider the following:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
 - (3) whether the requested area variance is substantial;
 - (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
- (c) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

In order to establish the above please complete the questions below (Please feel free to use additional pages if necessary):

Property Address 56 Madison

1. What facts support that the applicant cannot realize a reasonable return?

2. Why should the ZBA determine the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood?

3. Will the use variance, if granted, alter the essential character of the neighborhood?

NO

4. Will the proposed area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

NO

5. Is the alleged hardship self-created?

N/A


Sign Application and Print Name Below



© 2020 Eagleview





CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

Application Notice

July 19, 2024

Anthony Catuzza
21 Beech St
Lackawanna, NY 14218

Re: 56 Madison Ave

The above item has been placed on the agenda for the next scheduled meeting of the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna.

Planning and Development Board

Zoning Board of Appeals

Date:

Date: July 30, 2024

Time:

Time: 5:00pm

City Council Chambers Room 241
Lackawanna City Hall

If you have any questions please feel free to call 827-6474

Boarding Neighbors
Joan Masocco- 52 Madison



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

Bordering Property Notice

Dear Sir or Madam:

As an adjoining property owner in the City of Lackawanna, you are hereby notified that a neighbor has made application to the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna as follow;

- | | |
|----------------------------------|-----------------------------|
| 1. _____ Site Plan Review | 2. _____ Special Use Permit |
| 3. _____ Development Plan Review | 4. <u> X </u> Variance |
| 5. _____ Zoning Law Appeals | |

Property owner: Anthony Catuzza

Address: 56 Madison Ave

In reference to: Requesting variance for fence

You are entitled to appear at the public hearing scheduled for 7/30/24@ 5:00pm in Council Chambers at Lackawanna City Hall to express your support or opposition to the granting of said application.

Communications, relating to the application, may be filed with the appropriate Board before the meeting by writing to:

Planning & Development Board/Zoning Board
Department of Development
714 Ridge Road, Room 309
Lackawanna, NY 14218

If you have any questions regarding the meeting, please call 716-827-6474

PLANNING AND DEVELOPMENT BOARD, CITY OF LACKAWANNA
ZONING BOARD OF APPEALS, CITY OF LACKAWANNA



CITY OF LACKAWANNA OFFICE OF CODE ENFORCEMENT

714 Ridge Road – Room 311
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866



Agenda Checklist
Zoning Board of Appeals
Planning and Development Board

Agenda item OPEN A RESTAURANT

Property address 119 WILKES BARRE

Zone MIXED RESIDENTIAL

Use variance needed? Yes No

Description of use variance (not allowed in that zone) CHANGE OF USE STORE TO RESTAURANT (CLOSED OVER ONE YEAR)

Area variance needed? Yes No

Description of area variances needed (Parking/ height ect...) NO PARKING ON THE PROPERTY, VARIANCE FOR 2.4 FOR UPPER APT. AND 4 SPACES FOR RESTAURANT FOR PARKING

Description of agenda use? CLOSED STORE CHANGE TO RESTAURANT

Code enforcement research (attached if applicable) YES

Legal opinion/ research (attached if applicable) NO

Scott Hayes
Code Enforcement Officer



CITY OF LACKAWANNA DEPARTMENT OF DEVELOPMENT

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866



APPLICATION TO THE CITY OF LACKAWANNA ZONING BOARD OF APPEALS

Date: 6-26-24

Application No. _____

Application Fee:

Land Use Variance
 Zoning Law Appeal

Fee

\$ 250.00

\$ 250.00

Property Address: 119 Wilkesbarre St. Lackawanna NY 14218

S.B.L. No. _____

Description of Action to be Appealed: Change of use from store to restaurant. Asking For parking variance.

APPLICATION IS HEREBY MADE to the City of Lackawanna Zoning Board of Appeals for a Land Use Variance and/or Zoning Law Appeal as required by the Municipal Code of the City of Lackawanna. The applicant hereby agrees to comply with all applicable laws, rules, ordinances and regulations.

Director of Development

MASSOOR SALEH
Name of Applicant

[Signature]
Signature of Applicant

119 Wilkesbarre St
Address of Applicant

Applicant Phone No.

m- [unclear]
Applicant's Email

Owner
Role of Applicant to Project
(owner, attorney, lessee, agent,
architect, engineer, contractor...)

Property Owner:

NAME: MASSOOR SALEH

Address: 119 Wilkesbarre St.

Lackawanna NY 14218



**CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT**

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866



City of Lackawanna Criteria for an Area Variance

(All applicants must answer questions below when an Area Variance is sought)

Before the Zoning Board of Appeals may grant an Area Variance the Applicant must provide proof of, and the ZBA must consider the following:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
 - (3) whether the requested area variance is substantial;
 - (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
- (c) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

In order to establish the above please complete the questions below (Please feel free to use additional pages if necessary):

Property Address 119 Wilkesbarre St

1. What facts support that the applicant cannot realize a reasonable return?

The space has been a deli and kitchen since 2007 when I first opened. I'm confident that reopening without tobacco and groceries will benefit the neighborhood. We will serve as a restaurant making subs, burger, sandwiches and desserts.

2. Why should the ZBA determine the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood?

In fact, it isn't unique. We will be serving the same foods as the previous business with more food items than serving as a Deli.

3. Will the use variance, if granted, alter the essential character of the neighborhood?

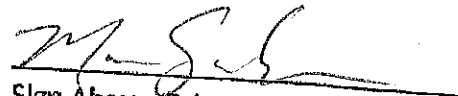
No, it will only add more character to the neighborhood.

4. Will the proposed area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

No, I plan to have routine scheduled maintenance to make sure there isn't any impact on the physical or environmental conditions in the neighborhood and district.

5. Is the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance?

The operations of this new project will be the same as the previous business and request that the area variance if needed is granted


Sign Above, Print Name Below
MAUSOOR SALEH



**CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT**

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866



City of Lackawanna Criteria for a Use Variance

(All applicants must answer questions below when a Use Variance is sought)

The Zoning Board of Appeals may not grant a Use without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) the alleged hardship has not been self-created.

In order to establish the above please complete the questions below (Please feel free to use additional pages, and pictures, if necessary):

Property Address: 119 Wilkesbarre St.

1. Will an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance, and if not why not?

I am confident in the success and sustainability of Baraka Eats and Treats, and I believe this new venture will be a beneficial addition to the community. I have updated the building with new siding and roof recently and have been actively improving the curb appeal of the property. I have full access to a parking lot for the business.

2. Can the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance, and if not why not?

I'm not sure why an area variance is needed. I plan to have the same operations minus any tobacco and groceries.

3. Is the requested area variance is substantial when considered against adopted area zoning regulations?

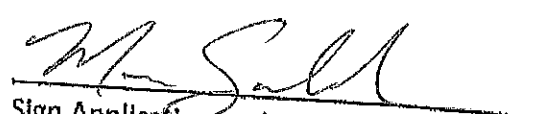
The building is zoned for the operations in question. The space has been a deli and kitchen since 2007 when I first opened. We are only removing the tobacco and groceries.

4. Will the proposed area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

No, I strongly feel that the proposed area variance will only benefit and add value to the quality of the neighborhood.

5. Is the alleged hardship self-created?

~~It~~ No


Sign Application and Print Name Below
MANSOOR SALEH

SPECIFICATIONS:

LED ILLUMINATED CLOUD SIGN
FACE & HALO LIT

FACE: WHITE POLYCARBONATE W/
TRANSLUCENT VINYL APPLIED
ORACAL 8500 053 LIGHT BLUE
8500 031 RED
8500 021 YELLOW

TRIM CAP: WHITE

RETURNS: WHITE

HALO LIT: WHITE



22.5 SF



DESIGN PROPOSAL

DATE:
5/15/24

CUSTOMER:
BARAKA EATS AND TREATS

JOB LOCATION:
119 WILKESBARRE ST.
LACKAWANNA, NY 14218



1130 Sheridan Drive
Tonawanda, NY 14150
(716) 240-9740

PHONE #:
716-400-9988

DESIGNER: KO

*Property of Buffalo Signmakers © 2023 all rights reserved

DESIGN PROOF &
APPROVAL FORM

APPROVED. PROCEED TO PRODUCTION
SIGNED: _____

DATE: _____

CHANGES TO ARTWORK.
SEE NOTES AND REVISE

Google Maps 98 Pearl Ave

Lackawanna, New York

Google Street View

Sep 2007

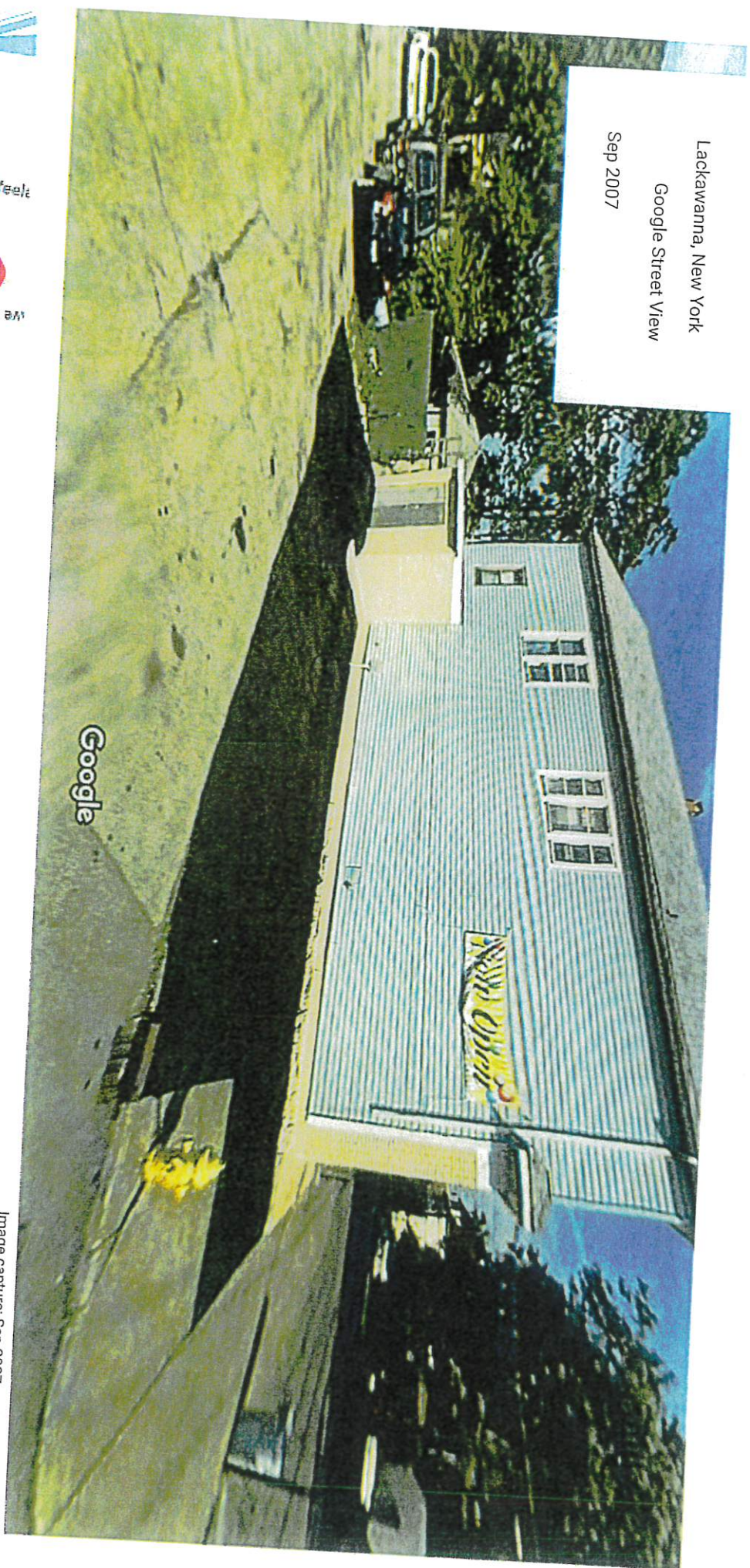
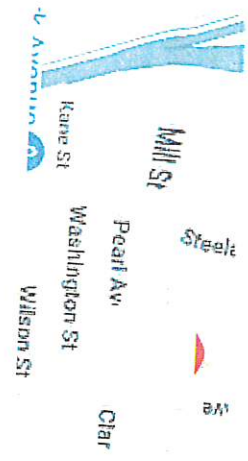


Image capture: Sep 2007 @ 2024 Google



HOT SUBS

	<i>Mini</i>	<i>Whole</i>
Steak Hoagie	\$4.99	\$7.50
Turkey Hoagie	\$4.99	\$7.50
Steak & Sausage	\$5.49	\$7.99
Chicken Finger	\$4.99	\$7.50
Stinger (Steak & Chicken Finger)	\$5.49	\$7.99
Hamburger	\$4.25	\$5.75
Cheeseburger	\$4.50	\$5.99
Grilled Chicken	\$4.99	\$7.50
California Chicken	\$4.99	\$7.50
Extra Meat \$1.00	Extra Cheese \$.50	

WINGS

(Mild, Hot, BBQ, or Honey Mustard)

Single (10)	\$7.99
Double (20)	\$12.99
Triple (30)	\$17.99
Bucket (50)	\$22.99
Extra Blue Cheese	\$.50

PIZZA

17" Pizza w/ Topping	\$9.99
Add Chicken or Steak	\$11.99
Extra Topping	\$1.50
Pizza Slice	\$1.99

~Specials~

Lg. Pizza, 20 Wings, & 2 Liter Pop
- \$22.99

Slice of Pizza, 5 Wings, & Pop
- \$4.99

Any 3 Whole Subs - Free 2 Liter!

COLD SUBS

	<i>Half</i>	<i>Whole</i>
Turkey	\$3.50	\$4.99
Roast Beef	\$3.50	\$4.99
Beef Salami	\$3.50	\$4.99
Turkey Ham	\$3.50	\$4.99
Turkey Pastrami	\$3.50	\$4.99
Assorted	\$3.99	\$5.99
Tuna	\$3.50	\$4.99
Veggie	\$2.99	\$4.99
Extra Meat	\$1.00	Extra Cheese \$.50

SANDWICHES

Grilled Chicken	\$2.99
Beef Salami	\$2.99
Turkey Ham	\$2.99
Turkey Pastrami	\$2.99
Assorted	\$3.99
Tuna	\$2.99
Turkey	\$2.99

Extra Meat \$1.00

Extra Cheese \$.25

WRAPS

Grilled Chicken	\$4.99
Steak	\$4.99
Tuna	\$3.99
Turkey	\$3.99
Turkey Ham	\$3.99
Veggie	\$3.99
Beef Taco	\$2.99

Cold Cuts Are Available!

BURGERS/HOT DOGS

	<i>Single</i>	<i>Double</i>
Hamburger	\$2.50	\$3.50
Cheeseburger	\$2.75	\$4.25
Mecca Burger	\$3.50	\$4.50
(Mayo, Cheese, Bacon, Cooked Mushrooms, & Honey Mustard)		
Bacon Burger	\$3.25	\$4.50
Beef Hot Dog	\$2.50	
Extra Cheese	\$.25	

APPETIZERS

	<i>Small</i>	<i>Large</i>
Seasoned Fries	\$1.99	\$3.50
Steak & Cheese Fries		\$5.99
Onion Rings	\$2.00	\$3.99
Mozzarella Sticks		\$4.99
Pastelitos	\$2.00	
Beef Pattie	\$2.00	

Extra Nacho Cheese \$.50

Extra Chili \$.50

DINNERS

(All dinners include fries)

8 oz. Shrimp Dinner \$6.49

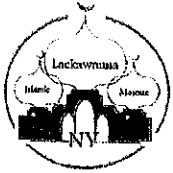
Chicken Finger Dinners

3 Pieces	\$4.99
5 Pieces	\$6.99
10 Pieces	\$10.99

Fried Chicken Dinner \$5.99

Fish Fry Dinner \$7.99

*ALL SUBS/SANDWICHES INCLUDE YOUR CHOICE OF MAYO, MIRACLE WHIP, CHEESE, LETTUCE, TOMATO, ONIONS, OIL, BANANA PEPPERS, JALEPENOS, MUSHROOMS, & PICKLES.



In The Name of ALLAH, The Beneficent, The Merciful
مَسْجِدُ لَاقَوَانَا الْإِسْلَامِي
Lackawanna Islamic Mosque

Wednesday, June 12, 2024

To: Lackawanna Code Enforcement Personnel,

We have received a request from Mansoor Saleh to use the Mosque parking lot located on the corner of Pearl St. and Wilkesbarre Street, which is across from his property at 119 Wilkesbarre Street.

The board members of the Lackawanna Islamic Mosque have agreed to honor this request as long as it doesn't interfere with the mosque's activities and parking restrictions and the lot remains clear of any litter.

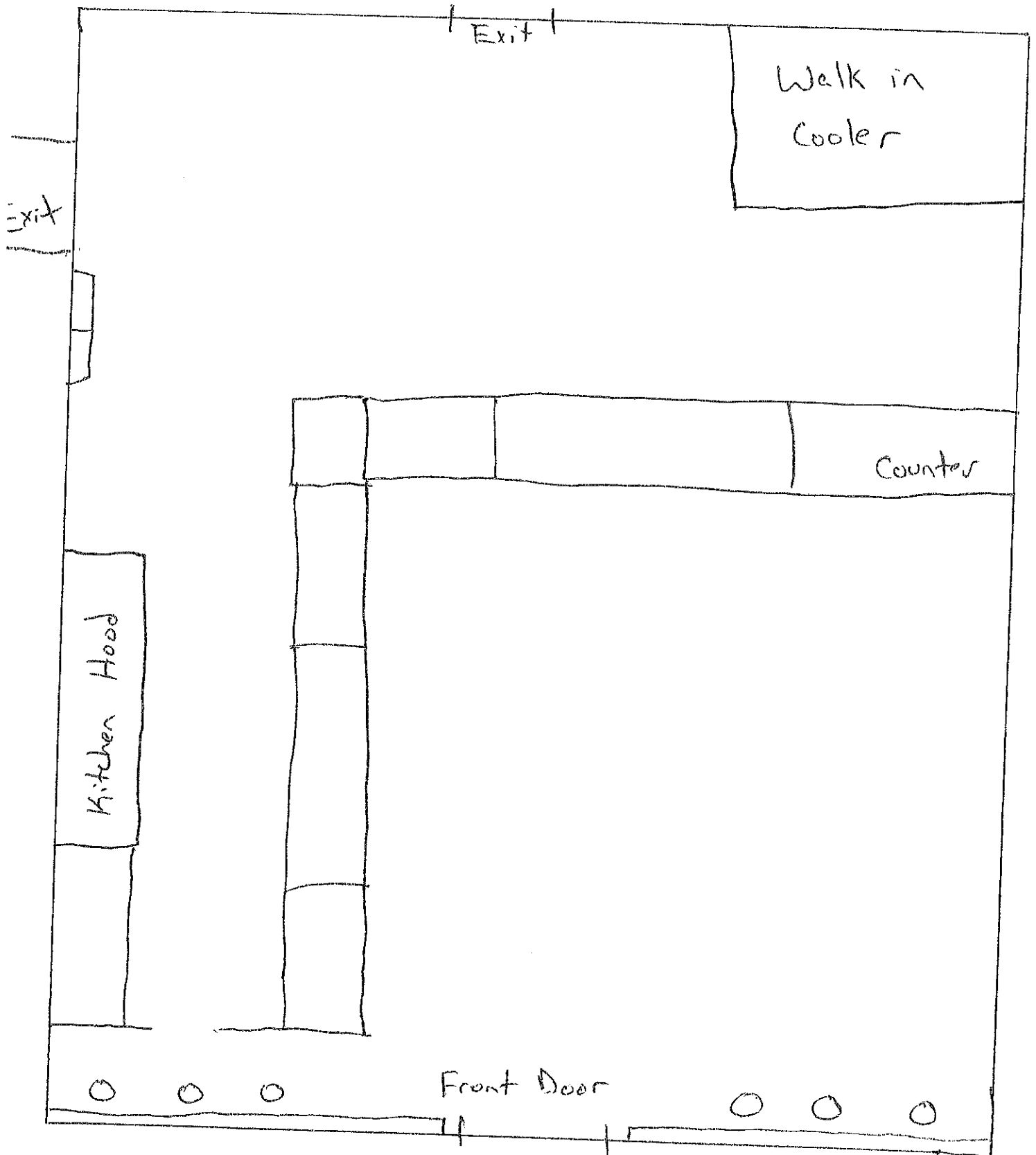
If you have any questions please feel free to contact us

Thank you

Abdo Abdalla
Vice President
Lackawanna Islamic Mosque

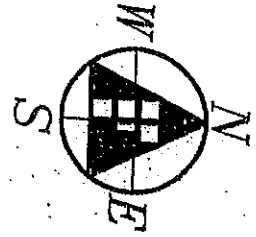
مسجد لاكوانا
Lackawanna Islamic Mosque
154 Wilkesbarre St
Lackawanna, New York 14218
Ph (716) 825-9490

BARAKA Eats and Treats 119 Wilkesbarre St
Approx 1000 sqft

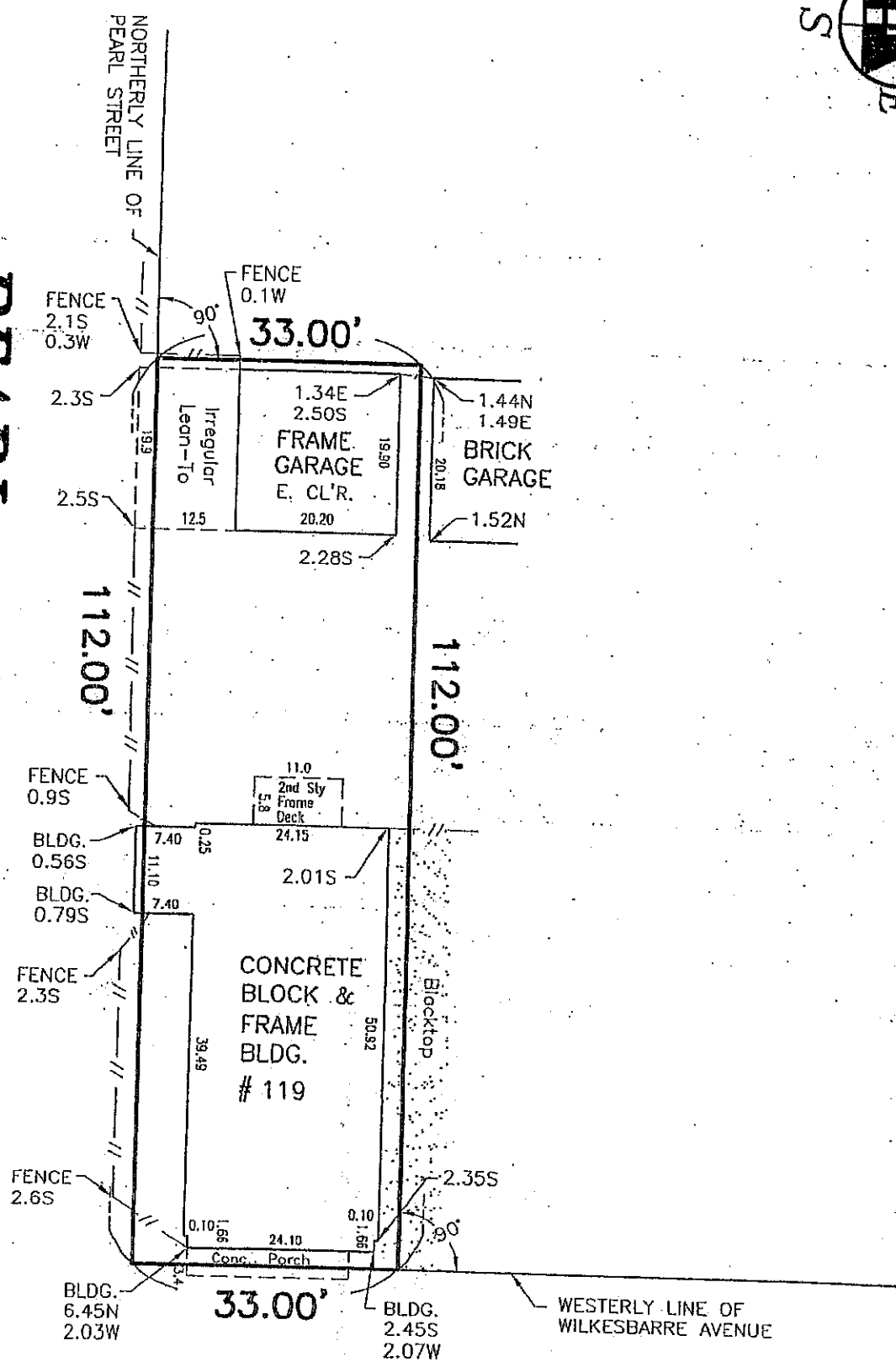


- Feet inches
- 0.08' - 1 inch
- 0.17 - 2"
- 0.25 - 3"
- 0.33 - 4"
- 0.42 - 5"
- 0.50 - 6"
- 0.58 - 7"
- 0.67 - 8"
- 0.75 - 9"
- 0.83 - 10"
- 0.92 - 11"
- 1.00 - 12"

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH



PEARL STREET
 (50' WIDE)
STREET



WILKESBARRE (50' WIDE) AVE.

(A.K.A. WILKESBARRE STREET)

Chapter 230. Zoning

Article III. District Regulations

§ 230-11. Mixed Residential - MR.

- A. Purpose. Mixed Residential Districts have been designated in the City of Lackawanna to acknowledge the diversity of housing types currently available in the City's residential neighborhoods. The district is designed to allow a variety of housing styles and flexibility in building placement while protecting the appearance and character of residential neighborhoods.
- B. Use regulations.

Permitted Uses and Structures

Permitted Accessory Uses (subject to the provisions of this chapter)

Site Plan Review Uses

- Single-family detached dwellings
- Two-family detached dwellings
- Private garages with space for no more than three vehicles
- Home occupations
- Off-street parking and loading facilities
- Signs
- Fences, walls and hedges
- Private swimming pools
- Recreation facilities for the exclusive use of the primary use residents
- Satellite receiving antenna
- Alternative energy system apparatus
- Accessory storage building
- Attached single-family residences
- Multiple dwellings
- Mobile home parks
- Child-care centers
- Houses of worship
- Public buildings and uses
- Essential public services where no other site is available

- C. Site area requirements.

All Uses

Maximum Building Height	3 stories or 30 feet
Minimum Front Yard	25 feet
Maximum Building Coverage	35%
Maximum Lot Coverage	50%

Single- and Two-Family Detached

Minimum Lot Size	4,500 square feet
Minimum Lot Frontage	45 feet
Minimum Side Yard	5 feet
Minimum Rear Yard	20 feet
Maximum Density	20 units per acre

Attached Single-Family Residential

Minimum Lot Size	7,000 square feet
Minimum Lot Frontage	70 feet
Maximum Building Length	160 feet
Minimum Side Yard	10 feet or 1/2 building height, whichever is greater
Minimum Rear Yard	30 feet
Minimum Inter-building Yard	60 feet
Maximum Number of Units per Structure	4
Maximum Density	20 units per acre
Minimum Open Space	500 square feet per dwelling
Minimum Landscaping	20%

Multifamily Dwellings

Minimum Lot Size	8,000 square feet
Minimum Lot Frontage	75
Maximum Building Length	160 feet
Minimum Side Yard	30 feet
Minimum Rear Yard	30 feet
Maximum Density	36 units per acre
Minimum Open Space	500 square feet per dwelling
Minimum Landscaping	20%

§ 230-15. Mixed Commercial and Industrial - MCI.

- A. Purpose. A Mixed Commercial and Industrial Use District has been created in the City of Lackawanna's First Ward. The district is designed to accommodate light industrial, office and automobile-oriented retail uses while protecting surrounding residential uses from industrial externalities.
- B. Use regulations.

Chapter 230. Zoning

Article V. Regulations Applicable to All Districts

§ 230-36. Parking, loading and stacking.

A. General provisions.

- (1) Existing parking, loading or stacking facilities shall be continued and maintained, and shall not be reduced below the requirements of this chapter, for the duration that the principal use is maintained.
- (2) Permanent off-street automobile storage, parking or standing space shall be provided as set forth below at the time of the construction, enlargement or conversion of any use, building or structure.
- (3) If the requirements of this section cannot be reasonably provided on the same lot as the principal use, the Planning and Development Board may permit such space be provided on another off-street property, provided such facility is located within 400 feet of the main entrance of the principal use.
- (4) All parking facilities shall be used for passenger automobile or commercial vehicles only.
- (5) Parking facilities shall not be used for automobile storage, commercial repairs, sales or service.
- (6) Parking facilities shall be unobstructed and free of other uses.
- (7) All parking facilities required for uses subject to site plan review shall be landscaped and screened from public view in accordance with this chapter.

B. Off-street parking requirements. In all districts, the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations that increase the number of required parking units, and changes in use:

Use/Facility	Requirement (spaces)
Amusement centers	1 per 5 customers based upon the maximum service capacity at any one time, plus 1 per 2 employees
Automotive sales facilities	2 per employee
Automotive service stations	1 per service bay plus 1 per employee; no more than 4 vehicles shall be stored at one time and shall not remain for more than 72 hours.
Bank	1 per 250 square feet of net floor area
Bar/tavern	1 per 50 square feet
Barber shops/beauty parlors	2 per barber/beauty chair

Use/Facility	Requirement (spaces)
Residential (group home for elderly, disabled)	more bedroom units 1/2 per dwelling unit or if public transportation is available within 500 feet, 1/4 per dwelling unit
Restaurant and banquet hall	1 per 3 seats plus 2 for every 3 employees on the maximum shift
Restaurant - take out only	1 per 10 square feet of net floor area
Retail stores (detached)	1 per 250 square feet of sales floor area
Schools (nursery and primary)	1 per employee
Schools (secondary)	1 per 10 student instruction seats or if no fixed seats, 1 per 100 square feet of instructional space
Schools (trade)	1 space per 4 students
Shelters	1 per 2 employees
Commercial centers	5 per 1,000 net square feet
Sports complex/athletic field	10 per field

C. Exceptions. The requirements of this article may be reduced to the extent that the applicant can demonstrate that less parking is required for one of the following reasons:

- (1) Adjacent uses operate at different times and thus, arrangements with surrounding land owners to utilize their parking facilities through a formal agreement are feasible.
- (2) The new development is in close proximity to a public parking facility.

D. Location.

- (1) Required off-street parking shall be located on the same lot as the building to which it is an accessory use, except as herein provided.
- (2) All off-street parking facilities shall be located to the side or rear of the principal use building except in the Central Business District, where off-street parking shall be restricted to the rear yard.
- (3) Off-street parking facilities shall not be located within the required setback areas.
- (4) Permanent front and rear yard parking areas in residential zones, other than driveways accessing a garage or designated parking area, are prohibited.
- (5) No vehicles shall be parked on any lawn area.
- (6) Vehicles bearing signs more than two square feet in area shall not be permitted to park as a customary operation in a residential area so as to be visible from the street.
- (7) At least one of the required spaces for attached single-family residential units shall be provided on the same lot as the primary unit.
- (8) No parking lots shall be located closer than 15 feet to any adjacent residential property.
- (9) Nonresidential parking spaces shall be provided access to a nonresidential public street through a drive or aisle at least 10 feet wide.

E. Parking space dimension requirements.

Angle of stall	90°	60°	45°
Stall length	19' 00"	21' 00"	19' 10"



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

July 19, 2024

Application Notice

Mansoor Saleh
119 Wilkesbarre Ave
Lackawanna, NY 14218

Re: 119 Wilkesbarre Ave

The above item has been placed on the agenda for the next scheduled meeting of the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna.

Planning and Development Board

Zoning Board of Appeals

Date:

Date: July 30, 2024

Time:

Time: 5:00pm

City Council Chambers Room 241
Lackawanna City Hall

If you have any questions please feel free to call 827-6474

Boarding Neighbors
Ezra Vines-66 Pearl



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

Bordering Property Notice

Dear Sir or Madam:

As an adjoining property owner in the City of Lackawanna, you are hereby notified that a neighbor has made application to the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna as follow;

- | | |
|----------------------------------|-----------------------------|
| 1. _____ Site Plan Review | 2. _____ Special Use Permit |
| 3. _____ Development Plan Review | 4. <u> X </u> Variance |
| 5. _____ Zoning Law Appeals | |

Property owner: Mansoor Saleh

Address: 119 Wilkesbarre Ave

In reference to: Requesting to change store into a restaurant

You are entitled to appear at the public hearing scheduled for **7/30/24@ 5:00pm** in Council Chambers at Lackawanna City Hall to express your support or opposition to the granting of said application.

Communications, relating to the application, may be filed with the appropriate Board before the meeting by writing to:

Planning & Development Board/Zoning Board
Department of Development
714 Ridge Road, Room 309
Lackawanna, NY 14218

If you have any questions regarding the meeting, please call 716-827-6474

PLANNING AND DEVELOPMENT BOARD, CITY OF LACKAWANNA
ZONING BOARD OF APPEALS, CITY OF LACKAWANNA



**CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT**

714 Ridge Road - Room 309
Lackawanna, NY 14218
Tel: (716) 827-6421 Fax: (716) 827-1866



APPLICATION
TO THE CITY OF LACKAWANNA
ZONING BOARD OF APPEALS

Date: _____

Application No. _____

Application Fee:

Land Use Variance
 Zoning Law Appeal

Fee
\$ 250.00
\$ 250.00

Property Address: 1305 ABBOTT ROAD

S.B.L. No. _____

Description of Action to be Appealed: WE WOULD ASK THAT THE TENANT
IN THE UPSTAIRS APARTMENT BE ABLE TO USE THE SIDE DRIVEWAY
FOR PARKING, AND NOT BE REQUIRED TO HAVE 2.5 SPOTS
IN THE ^{BACK} PARKING LOT, AS REQUIRED BY CODE

APPLICATION IS HEREBY MADE to the City of Lackawanna Zoning Board of Appeals for a Land Use Variance and/or Zoning Law Appeal as required by the Municipal Code of the City of Lackawanna. The applicant hereby agrees to comply with all applicable laws, rules, ordinances and regulations.

Director of Development

KAREN PEPE
Name of Applicant


Signature of Applicant

6125 EMERSON DRIVE, ORCHARD PARK NY
Address of Applicant

Applicant Phone No.

Applicant's Email

OWNER
Role of Applicant to Project
(owner, attorney, lessee, agent,
architect, engineer, contractor...)

Property Owner:

NAME: KEVIN KANIA

Address: 4944 ARMOR DRIVE

HAMBURG, NY 14075



**CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT**

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866



City of Lackawanna Criteria for a Use Variance

(All applicants must answer questions below when a Use Variance is sought)

The Zoning Board of Appeals may not grant a Use without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) the alleged hardship has not been self-created.

In order to establish the above please complete the questions below (Please feel free to use additional pages, and pictures, if necessary):

Property Address 1385 ABBOTT ROAD

1. What facts support that the applicant cannot realize a reasonable return ?

N/A

2. Why should the ZBA determine the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood?

N/A

3. Will the use variance, if granted, alter the essential character of the neighborhood ?

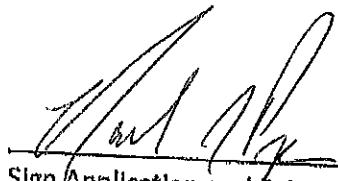
NO

4. Will the proposed area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

NO

5. Is the alleged hardship self-created?

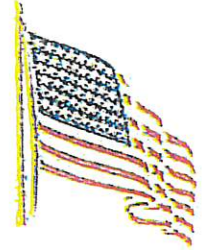
No

 MARK PEPE
Sign Application and Print Name Below



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866



City of Lackawanna Criteria for an Area Variance

(All applicants must answer questions below when an Area Variance is sought)

Before the Zoning Board of Appeals may grant an Area Variance the Applicant must provide proof of, and the ZBA must consider the following:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
 - (3) whether the requested area variance is substantial;
 - (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
- (c) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

In order to establish the above please complete the questions below (Please feel free to use additional pages if necessary):

Property Address: 1385 ABBOTT ROAD

1. Will an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance, and if not why not?

NO. THE TENANT WILL ~~PARK~~ IN CONTINUE TO PARK IN THE DRIVEWAY, JUST AS HE ALWAYS HAS

2. Can the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance, and if not why not?

NO, BECAUSE THE PARKING LOT CAN'T BE EXPANDED

3. Is the requested area variance is substantial when considered against adopted area zoning regulations?


NO

4. Will the proposed area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

NO

5. Is the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance?

I WOULD NEED A TRANSLATOR TO UNDERSTAND WHAT IS BEING ASKED HERE


Sign Above, Print Name Below

Zoning Board Members,

To be in compliance with Lackawanna parking code, our dispensary would require 3 parking spots to accommodate our 640-sf showroom and an additional 2.5 parking spots for each of the two apartments upstairs. This would require 8 parking spots, which the lot does not have. The lot has 4 viable parking spots. The variance is asking Lackawanna to let the driveway on the side of 1385 act as the 2.5 space parking lot for the one existing tenant in the building. Our landlord, Kevin Kania, whose family has owned the building since 1980, has guaranteed the Zoning Board that he will not rent out the second apartment as a good will gesture to ease any parking concerns the town may have. You can find a copy of Mr. Kania's letter to the board attached. While the parking situation isn't perfect, it is something we have dealt with for the past ten years with absolutely no issues. Yeti Vape customers who couldn't find a space in the lot would use the 150 lineal feet of street parking in front of the store to park. After 4:00 pm and on weekends our customers would also use the parking lot of the state-run facility in our co-joined parking lot. In return, the state-run facility has always been free to use our parking lot for their morning traffic overflow. It has been a two-way street neither company has ever complained to the other about. The precedent of sharing this parking space between 1385 and 1377 Abbott Road goes all the way back to 1954, the year Ridgewood Pharmacy was built.

Dear Zoning Board Members,

My family has owned the property at 1385 Abbott Road for the past 44 years. If the Zoning or Planning board rejects this state licensed dispensary, my tenants will be forced to leave. My current tenant, Yeti Vape, has been with me in this spot since 2013. They have been excellent tenants. They have paid their rent timely, they have improved my building on their own dime, and they have never caused me a problem as my tenant. If I were to lose them, not only will I not find another tenant of their quality, I won't find a tenant in this economy period! If/when this becomes the case, I am not going to be able to pay the \$9,200 I am currently paying before Lackawanna's new property tax hike. These taxes are a burden already. If I lose this tenant, paying these taxes is going to become a hardship. As a taxpayer, this doesn't help me, and a boarded-up business doesn't help Lackawanna.

I am willing to take certain actions, which work to my own detriment, to keep my current tenants in place. To help with the parking issue, I will forego renting one of the two upstairs apartments to decrease the town's parking requirements by 2.5 spots. I will agree to do so as long as the dispensary is there, and I own the building.

The gentlemen from code enforcement have let me know I have an ingress/egress issue at this property. This building has been in operation since the 1950's and my family has owned it since 1980. The shared ingress/egress entry into the parking lot between the businesses at 1385 and 1377 Abbott has always been there, and it has never been an issue. Both businesses have always shared access. In 44 years of operation, as both a pharmacy and a vape shop, I have never once had a complaint from my tenants or the resident at 1377.

It is worth noting that there is also 150 feet of additional street parking to alleviate any parking lot overflow.

My tenants are good and able people with a solid 11-year track record of attracting people to Lackawanna and doing business the right way. With the utmost respect, I am asking you to do everything in your power to help get them up and running before I lose them as a tenant.

Respectfully,



Kevin F. Kania

OUR PLAN TO CONVERT YETI VAPE INTO YETI CANNA CO.

The Office of Cannabis Management has awarded Briar Hill Holdings LLC an Adult-Use Retail Dispensary License to be used at 1385 Abbott Road. This address has been the home of Yeti Vape since the fall of 2013. After a decade long run, Yeti Vape Lackawanna closed its doors for good on July 3, 2024. The project to convert the vape shop into a dispensary is now underway. Over the next couple of pages, I will give you a rundown of our conversion plan and the timeframe in which we are trying to do it.

Briar Hill Holdings, LLC was formed by Karen Pepe, a retiring bookkeeper with over 40 years' experience. Briar Hill Holdings, LLC will use the dba Yeti Canna Co. for the dispensary. Karen has hired Josh Pettit and Mark Pepe, the men who have run Yeti Vape for the last ten years, to run and manage the daily operations of the dispensary. Karen's bookkeeping skills will be critical in helping navigate the company through complex state and federal tax laws that exist in the cannabis space. Even though Yeti Vape has already been through two successful IRS audits that resulted in no change (no additional money owed for taxes), moving into cannabis, we knew that we needed to add some professional depth to our back office.

I will go through our business plan by giving you a timeline of the things to be done once we go before the Planning and Zoning Boards in July for final approval.

To begin, we have applied to the zoning board for a parking variance. Following Lackawanna parking code, our dispensary would require 3 parking spots to accommodate our 640-sf showroom and an additional 2.5 parking spots for each of the two apartments upstairs. This would require 8 parking spots, which the lot does not have. The lot has 4 viable parking spots. The variance is asking Lackawanna to let the driveway on the side of 1385 act as the 2.5 space parking lot for the one existing tenant in the building. Our landlord, Kevin Kania, whose family has owned the building since 1980, has guaranteed the Zoning Board that he will not rent out the second apartment as a good will gesture to ease any parking concerns the town may have. You can find a copy of Mr. Kania's letter to the board attached. While the parking situation isn't perfect, it is something we have dealt with for the past ten years with absolutely no issues. Yeti Vape customers who couldn't find a space in the lot would use the 150 lineal feet of street parking in front of the store to park. After 4:00 pm and on weekends our customers would also use the parking lot of the state-run facility in our co-joined parking lot. In return, the state-run facility has always been free to use our parking lot for their morning traffic overflow. It has been a two-way street neither company has ever complained to the other about. The precedent of sharing this parking space between 1385 and 1377 Abbott Road goes all the way back to 1954, the year Ridgewood Pharmacy was built.

If our location is approved by the Zoning and Planning Board at the July 15 meeting, here is a list of things that will begin on July 16:

1. As mentioned earlier, Yeti Vape closed to the public on July 3rd. As of Monday July 8, renovations will begin on the store. The shelves that held our grow supplies will be removed, all remaining vape supplies will be moved to other locations, and we will begin a thorough cleaning of the premises before making some slight modifications to the

showroom and putting a fresh coat of paint on. We have consistently updated the store over the years, so besides repainting, the modifications will be limited to adding some new display cases and moving the existing display cases closer to the front of the store in a symmetrical manner. The display cases will be wrapped in drywall and painted to give them a nice, finished look.

2. Doyle Security will be contacted. They have held us an early August date to install a video system, a security system and an access system. The video system will consist of 10 Speco 4.0 Megapixel turret cameras. The system will store video for 60 days. The system meets all OCM (Office of Cannabis Management) specs and can be shared with the Lackawanna Police Department. The cameras will be placed to cover the front entrance, the entire showroom and the entire path to the back safe room where money and cannabis products are stored. There will be a camera placed inside the safe room and another camera placed outside the safe room to cover the entire back parking lot. The security system will place motion detectors and glass break detectors on our windows. The access system will provide us with key fobs that will grant access to safe room for employees that we want in the room, and it will only allow them access during times designated by us. So, if an employee is not scheduled to be working, their key fob would not grant them access to the safe room unless we went into the back end of the system and modified it. This system meets all OCM security requirements.
3. We will reach out to Dutchie to begin training on our Point-of-Sale system. Yeti Vape has always used Lightspeed for our POS system. Dutchie is a much more powerful sales tracking system that will improve our sales reporting and inventory management. As part of our contract, Dutchie, who has been a leader in the cannabis industry from the beginning, will provide us with modifiable employee handbooks. Their experience in the industry will be priceless to a company new to the industry. Dutchie's POS system meets all OCM requirements.
4. Yeti Canna Co. has already selected the products we will be carrying and the retailers we will be buying from. The products will primarily consist of cannabis flower, vape cartridges and several kinds of edibles. All cannabis flower will be bought local. We feel the need to support the Western New York farmers who have been financially harmed by not having any dispensaries open to sell their last year's crop to. The vape cartridges and edibles will be bought from suppliers located throughout the state. We will have each supplier come into the store before opening to educate us on the details of their products, and to work out their products shelf placement. We will also be placing our first order with our reps the day they come to visit us so that they can be delivered shortly before our opening.
5. The 2'x4' lit Yeti Vape sign out in front will be taken down and replaced by a Yeti Canna Co. sign. The sign will be lit but will not move or flash. The sign will be in compliance with Lackawanna and OCM's standards by being less than 10% of the size of the wall it is located on.

YETI CANNA CO. OPERATIONAL PROCEDURES

Customers will enter through the front door at 1385 Abbott Road where they will be greeted by a store associate. The customer will be free to look around at our offerings. Associates will offer help and work with the customer to find a product that best suits them. Except for some flower samples that will be locked inside a box and bolted to a display case, there will not actually be any cannabis products in the showroom. Everything the customer sees will be empty display packages. Once the customer decides on what they want, their identification will be run through an electric age verification system, then their order will be placed on the point-of-sale system at the customer checkout area. That order will be received by an employee in the fulfillment center which will be located in the back of the store in the safe room. The order will be bagged up in the back room then brought out and handed to the employee who worked with the customer. The safe area will require key fob security clearance to enter. Only employees with clearance will be allowed access to that back room.

At the end of each shift, the cash registers will be counted out and the money will be deposited into a safe inside the fob protected safe room. This money will be picked up at established intervals by Empyreal Logistics and transported to their facility before being sent to our bank. These operating procedures will all be done in compliance with OCM standards.

WHY PARTNERING WITH YETI CANNA CO. WILL BE VALUABLE TO LACKAWANNA

New York State's Marijuana Regulation & Tax Act (MRTA) states that a certain percentage of the tax dollars generated by the sale of cannabis will go to the city town or village where the sale is made. That means that the better the dispensary does, the better the hosting town will do. Here are some reasons why Lackawanna is sitting in a favorable position working with us:

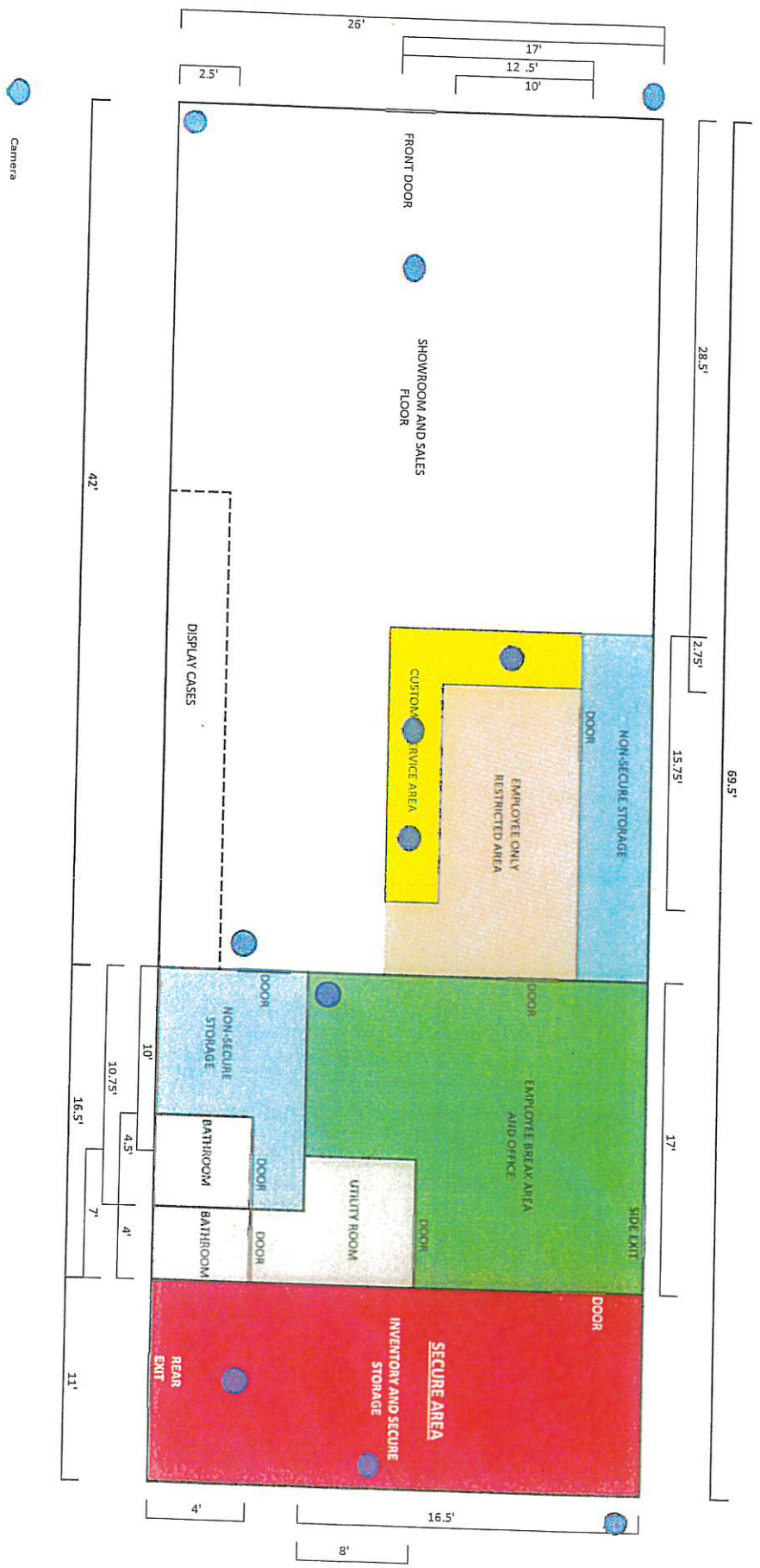
1. While most of our competitors are taking their first stab at retail with their new dispensary license, we have been at it for over 10 years now. We have had more than 110,000 customers walk through our door in Lackawanna.
2. Advertising for years has given us reach and credibility. If you've listened to the radio, chances are you've heard that catchy little jingle that ends in "YETI YETI YETI...VAPE". Yeti Vape was the most dominant company in the vape space. We are known for having great customer service, being knowledgeable, and having a great product. Although new to cannabis, people will know who we are on day 1, and they will trust us for their cannabis needs.
3. Yeti Vape has always been big on social media. We have a large following. Yeti Vape pages will be converted to Yeti Canna pages. The following will stay in-tact, meaning we won't

- have to do a grass roots social media start up. We are already established. This saves a lot of time, energy and money.
4. We have a strong back office. We know how to collect and remit taxes. The transition from vape will be smooth. We're not learning on the fly. The company has always done things the right way. We have two no change IRS audits under our belt.
 5. It's not just people from Lackawanna coming to Yeti. We attract people from all around. People from Orchard Park, West Seneca, Hamburg, South Buffalo and beyond come to us. They are comfortable with us, and they trust us. They aren't going to go to an unknown dispensary because it's 10 minutes closer to their house. Most of them are going to make the extra trip to do business with us. Let's bring people to Lackawanna to buy their cannabis so that Lackawanna gets their tax dollars instead of the surrounding townships getting it!
 6. The crossover demographic between people who vape and people who use cannabis is huge! The market we are exiting is going to look a lot like the market we are entering. Again, we have a built-in customer base on day 1.
 7. We have been part of the Lackawanna community for ten years now. We have a good relationship with everybody in this town. Many on the police force are Yeti Vape customers. We have supported them by buying tickets for their picnics and bringing them hand sanitizer that we made during Covid. The police will look out for our store.
 8. We have never once taken a cash transaction and not rung it through the cash register. We have paid taxes on every transaction that has ever happened in one of our stores.
 9. We have proven to the community that we have ethics. If you drive by our store, you will not see the white sign posted by the state listing our cannabis sales violations. That's because we have never sold cannabis out of our stores. We financially backed a licensed grow operation in 2022. As it turned out, OCM hadn't gotten any dispensaries open to sell it to. Instead of selling it out of our vape shop like most of the smoke shops do, we sold it to a processor on consignment. To this day we haven't even come close to recouping our investment. But we did the right thing because we only operate on the right side of the law.
 10. The early days of cannabis sales are going to be heavily watched by concerned citizens and federal branches like the IRS. You want to partner with people with tact and understanding of IRS codes, such as 280E, that stand to put a dispensary out of business if they aren't aware of the laws. This stands to be an embarrassment to the town that hosts it. We are a mature company that has tact and understanding of all cannabis laws and regulations. We have been working with cannabis lawyers and consultants for the past two years to move between vape and cannabis without any problems.

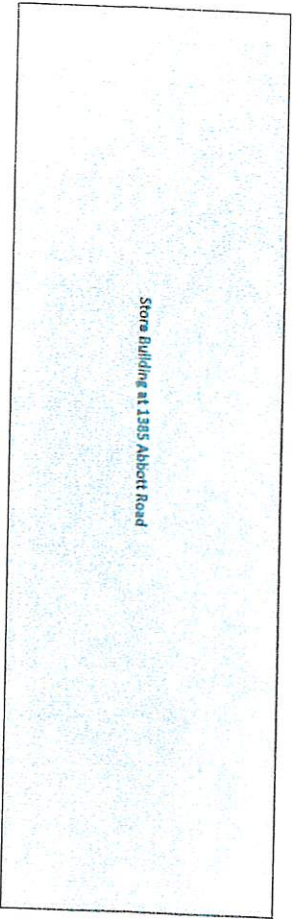
I'm sure some of you support cannabis sales, and some of you have your reservations. Regardless, it is the state's wish, and it is here. We look forward to a successful business venture with the Town of Lackawanna.

Sincerely,

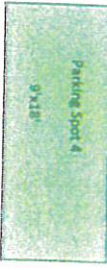
Mark Pepe



PARKING DIAGRAM FOR 1385 ABBOTT ROAD



** There is 150' of street parking on Abbott Road in front of the store. This will provide parkign in addition to the 4 spots on-site



Certificate of Licensure

New York State Adult-Use Cannabis Program



License Number : OCM-RETL-24-000069

License Type : Adult-Use Retail Dispensary License

Entity Name : Briar Hill Holdings LLC

DBA :

Date Of Issuance: 25-Apr-2024

Date Of Expiration : 25-Apr-2026

Operating Address :

Lackawanna

NY

14218

STREET

CITY

STATE

ZIP

The Adult-Use Cannabis Licensee must comply with all applicable state and local laws and regulations. This includes but is not limited to the Cannabis Law and its implementing regulations. An Adult-Use Cannabis Licensee's failure to comply with these laws and regulations may result in revocation of the license or permit, and the imposition of civil penalties, or any other enforcement action, as provided for in state and local laws and regulations, including but not limited to, the Cannabis Law and its implementing regulations. This license or permit is not a property or vested right.

CODE ENFORCEMENT HOMEWORK ABBOTT PROPERTY SURVEY

HCP PARKING

SECURITY GUARD WHERE?

MORE CAMERAS OUT SIDE.

REAR DOOR SECURITY?

PARKING

LEASE FROM NEIGHBOR TO USE HIS PARKING ACCESS.

SPECIAL USE PERMIT LIMITS?

LIMIT CUSTOMERS.

CAN'T RENT APTS

LIMIT OCCUPANCY

WORKERS HOW MANY?

MARK 7"



LEARN!

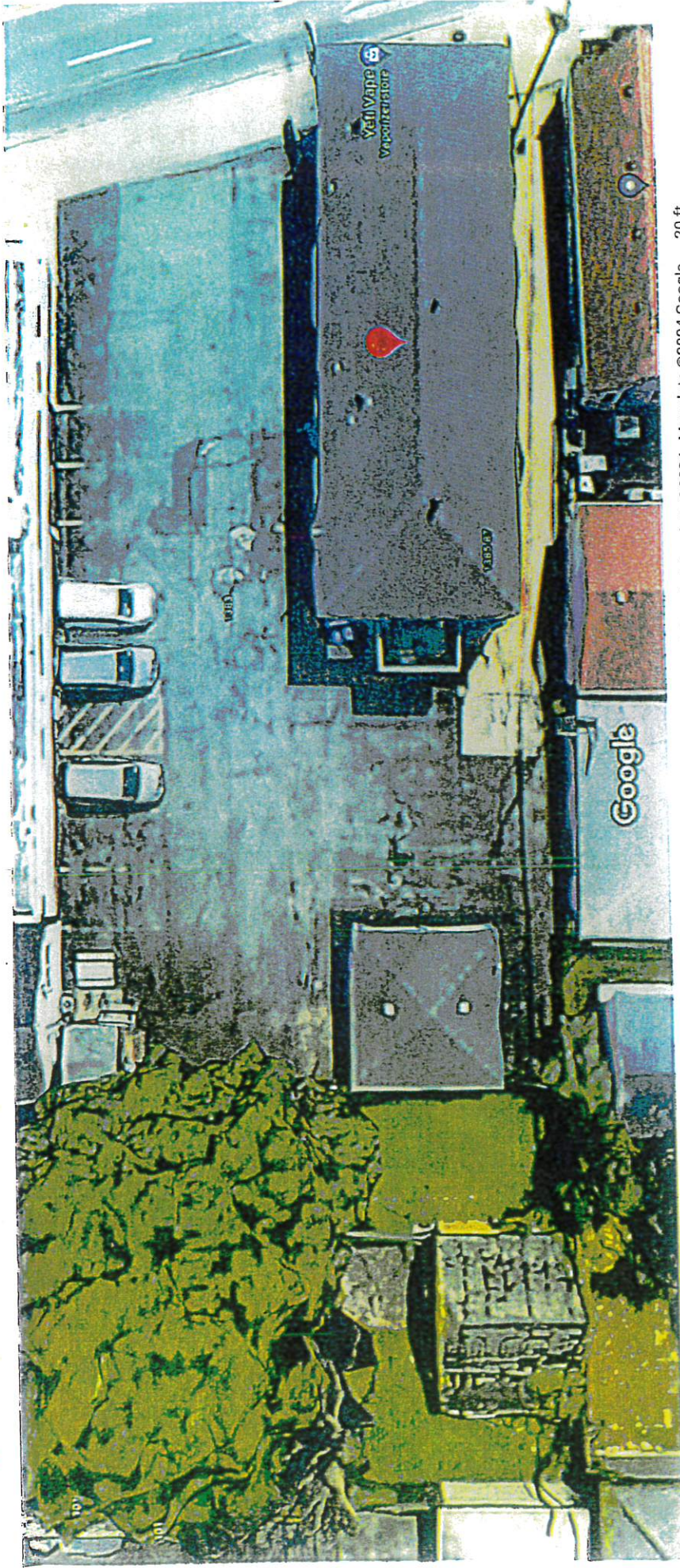
 CANINE



Yeti Canna Co.
 Building Floorplan
 1385 Abbott Rd. Lakewood, NY 14218



onX Hunt



Imagery ©2024 Google, Map data ©2024, Map data ©2024 Google 20 ft



YETI VAPE E-LIQUIDS
SEAL OF APPROVAL
YETI VAPE

YETI VAPE

AN ORDINANCE ADDING CHAPTER 93, CANNABIS TO THE CITY OF
LACKAWANNA MUNICIPAL CODE

BE IT ENACTED by the City Council of the City of Lackawanna, New York that the following Chapter 93, Cannabis shall be added as follows:

Chapter 93
CANNABIS
ARTICLE I
Permitted Cannabis Uses

§ 93-1.	Purpose; legislative intent.
§ 93-2.	Restrictions.
§ 93-3.	Security.
§ 93-4.	Signage.
§ 93-5.	General regulations.
§ 93-6.	Definitions.
§ 93-7.	Locations.
§ 93-8.	Penalties.

ARTICLE I
Permitted Cannabis Uses

§ 93-1. Purpose; legislative intent.

In order to promote the health, safety and general welfare of the residents of the City of Lackawanna, including property values, community character, quality of life, business climate and the prevention of crime, this article is intended to restrict cannabis uses, including but not limited to cultivators, processors, distributors, on-site cannabis consumption, and retail dispensaries, to being located in certain zoning districts as more fully set forth herein. Further, that all cannabis uses proposed to operate within the City and any cannabis license applicants must:

- Be licensed by and comply with all the requirements of the New York State Office of Cannabis Management ("OCM");
- Notify the City of its intent to file an application for the applicant's premises located in the City to be a cannabis establishment. The notice must be filed with the municipal clerk not less than thirty (30) days nor more than two hundred seventy (270) days before filing the license application with the State;
- Obtain all appropriate approvals, including Special Use Permit (Chapter 75) by the Zoning Board of Appeals and Planning & Development Board to ensure the strict compliance with these regulations; and then apply to register its business with the City Clerk's Office (Chapter 88).

§ 93-2. Restrictions.

Cannabis uses, including retail dispensaries, storage facilities, warehouses, cultivators, nurseries, processing facilities, on-site consumption, distributors and distribution centers, adult-use cooperatives, adult-use microbusinesses, and delivery services and operations shall be permitted subject to the following restrictions.

- A. No such cannabis uses shall be located within 1,000 feet of another existing cannabis facility set forth above.

- B. No such cannabis use shall be located within 500 feet of the property line at locations of community facilities and/or where children or those seeking treatment for substance abuse are known to gather, including, but not limited to, public parks, childcare centers, playgrounds, drug rehabilitation centers, medical practitioner's offices, community centers, and other similar facilities.
- C. No such cannabis use facility shall be located within 500 feet of a school building or property and/or within 200 feet of a religious house or place of worship.
 - (1) In the event that a school existing and authorized by the State Education Department is located on property where a place of worship also exists, no such cannabis use facility shall be located within 500 feet of the school building or property onto which the building is located.
- D. No cannabis use facility shall be located in any area zoned Single Family Residential (SFR) or Mixed Residential (MR) in any form
- E. No cannabis use facility may be located in any historic district.
- F. No retail dispensaries, distribution centers and/or on-site consumption may operate or occur on-site between the hours of 1:00 a.m. and 7:00 a.m.

§ 93-3. Security.

Any cannabis use set forth above, regardless of its location, shall take all necessary security measures at any facility permitted by a special use permit. Unless otherwise required as a condition of the special use permit, the following requirements must be met.

- A. All facilities where a cannabis use shall be established shall provide for fencing and/or other screening or security feature acceptable to the City Zoning Board and the City Council around the perimeter of the property at the height and type established by the Planning Board.
- B. All facilities where a cannabis use shall be established shall install a fully operational 4K camera system, at a minimum, sufficient to be used at night and covering all areas on the property to be so used. The system used shall be capable for video and audio recordings and all recordings must be kept for a minimum of thirty (30) calendar days.
- C. In any facility where a cannabis use is established where the general public and/or customers are invited shall provide for continual armed security guard presence while such facility is open to the public. Any such security presence shall be certified by the local, state, or federal government and shall provide such information as may be required by any local police agency from time to time.
- D. In any facility where a cannabis use is established where the general public and/or customers are invited shall provide for secure locations where cash is to be kept on the premises.
- E. In the event of deliveries from the cannabis use facility, provisions shall be made for adequate security consistent with these regulations which must be provided in advance to the Lackawanna Police Department and any local, state, and/or federal police agency.
- F. Home cultivation cannabis shall be screened from view from neighboring properties and shall otherwise be secured with appropriate fencing to deter removal by third parties.
 - (1) No cannabis shall be cultivated, grown, planted, and/or maintained in any front or side yard.
 - (2) Individuals cultivating, planting, growing, or maintaining any cannabis plants shall register with the Code Enforcement Office providing their name, address, and location of any plants prior to cultivating, planting, growing or maintaining any cannabis plants.
 - (3) Sufficient setbacks shall be maintained at all times of no less than fifteen (15) feet from any property line.

§ 93-4. Signage.

- A. Only one sign advertising the business shall be permitted on the building and same shall not exceed 10% of the size of the wall upon which the sign is located. No freestanding signs shall be permitted.
- B. Any illuminated sign shall not be flashing, rotating, or otherwise have any movement whatsoever as to not distract highway traffic or disturb any adjoining residential properties.
- C. Motor vehicles, vans, trucks, trailers, and/or similar items shall not be parked on the property which advertise the business in any way beyond the name of the business in lettering not to exceed twelve (12) inches per letter. Such vehicles shall not be left on the premises except in a fully enclosed garage during any period of time that the cannabis use facility is not open to the public.
- D. Any murals or other painting options shall be set forth in the application for a special use permit and are subject to the further reasonable requirements of the Planning Board. No paintings or murals that might distract drivers on any public highway or that could reasonably be interpreted as advertising to minors shall be permitted.

§ 93-5. General regulations.

- A. Odor at the facility where a cannabis use shall be established shall be maintained to limit odors onto adjoining properties to the greatest extent possible.
- B. Sufficient parking shall be provided on the premises for any customers and employees such that no on-street parking shall be required or permitted.
- C. Mobile sales shall be strictly prohibited. Nothing herein shall prevent licensed delivery vehicles with sufficient security features from making deliveries. All delivery operations shall be listed and described as part of the special use permit application.
- D. Any permitted use shall be pursuant to a special use permit as provided for under the Zoning Code of the City of Lackawanna.
 - (1) Reasonable conditions with respect to lighting, signage, hours of operation, parking, and other restrictions may be applied as part of the special use permit grant.
- E. Sufficient setbacks shall be maintained in a manner consistent with city zoning area requirements.
- F. Drive-through service windows and/or customer pick-up lanes must provide sufficient security features and shall not provide for direct access between a vehicle in the drive-through and the cannabis employee.
 - (1) License plate recognition cameras shall be placed such that they record the rear license plate of the vehicle while the vehicle is at the drive-through window and at the entrances to the property. Such placement shall be reviewed by the Lackawanna Police Department at the time of installation. Videos must be retained for a minimum of thirty (30) days.
 - (a) The Lackawanna Police Department shall be provided access to the monitoring system upon request. Alternatively, the cannabis use facility may provide a direct link of such camera system to the Police Department.
 - (2) No sliding windows may be used for drive-through access. Windows must provide sufficient protection from breaking from the outside.
 - (3) There shall be no direct contact between the employee and the customer. Retractable receipt/delivery devices shall be used at all times the drive-through window is used.
 - (4) There shall be adequate space on any site which uses a drive-through window to provide for the

stacking of vehicles to prevent vehicles from waiting on any public roadway and/or blocking any other sidewalk or area of ingress and egress.

G. Prior to opening any cannabis use facility, the Code Enforcement Office, Development Office, and the Lackawanna Police Department shall have the right to inspect all premises to ensure compliance with these provisions and all other provisions of law.

(1) The City of Lackawanna and its respective departments shall have the right to periodically inspect all cannabis use facilities to ensure compliance with these provisions and all other provisions of law without the necessity of an administrative search warrant.

§ 93-6. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CANNABIS USE FACILITY or CANNABIS ESTABLISHMENT— Any location, property, building, structure, accessory structure, or facility where cannabis, cannabis products, and/or related materials are located, stored, warehoused, sold, manufactured, used, smoked, ingested, processed, grown, cultivated, bartered, delivered, transported, advertised, or stored including retail dispensaries, cultivators, nurseries, processing facilities, distributors and distribution centers, adult-use cooperatives, adult-use microbusinesses, warehouses, and delivery services and operations.

COMMUNITY FACILITIES — Any location where children congregate including, but not limited to, playgrounds, libraries, public parks, bicycle paths, public pools, splash pads, athletic facilities and fields, and child-care centers.

CONSUMPTION — Any building, structure, location, property, business, or entity that is licensed by the state for the purposes of consuming, smoking, ingesting, injecting, or otherwise using cannabis, any cannabis product, and/or any cannabis-related product.

COOPERATIVE — A state-issued cooperative license authorizes the acquisition, possession, cultivation, processing and sale from the licensed premises of the adult-use cooperative by such licensee to duly licensed distributors, on-site consumption sites, registered organization and/or retail dispensaries; but not directly to cannabis consumers.

CULTIVATOR — The growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants. A state-issued cultivator's license authorizes the acquisition, possession, distribution, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator to a licensed processor.

DELIVERY — A state-issued delivery license authorizes the delivery of cannabis and cannabis products by licensees, independent of another adult-use cannabis license, to cannabis consumers. Delivery licenses may not have a total of more than 25 individuals, or the equivalent thereof, providing full-time paid delivery services to cannabis consumers per week under one license.

DISTRIBUTOR — Any person who sells at wholesale any cannabis product for which a license is required. A state-issued distributor's license authorizes the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use processor, adult-use cooperative, microbusiness, or registered organization authorized to sell adult-use cannabis, to duly licensed retail dispensaries, on-site consumption sites and adult-use delivery licensees.

HOME CULTIVATION — Growing cannabis on any residential property for personal use.

MICROBUSINESS — A licensee that may act as a cannabis producer for the cultivation of cannabis, a cannabis processor, a cannabis distributor, and a cannabis retailer. A microbusiness license authorizes the limited cultivation, processing, distribution, delivery, and sale of their own adult-use cannabis and cannabis products.

NURSERY — A licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult use cannabis cultivators, microbusinesses, cooperatives and registered organizations. A state-issued nursery license

authorizes the production, sale and distribution of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult-use cultivators, cooperatives, microbusinesses, or registered organizations.

PROCESSOR — A licensee that extracts concentrated cannabis and/or compounds, blends, extracts, infuses, or otherwise manufactures concentrated cannabis or cannabis products. A state-issued processor's license authorizes the acquisition, possession, processing, and sale of cannabis from the licensed premises of adult-use cultivators to licensed distributors.

RETAIL DISPENSARY — "Retailer" means any person who sells at retail any cannabis product, to cannabis consumers. A state-issued retail dispensary license authorizes the acquisition, possession, sale and delivery of cannabis from the licensed premises of the retail dispensary by such licensee to cannabis consumers.

WAREHOUSE — Any building, structure, location, property, business, or entity where any cannabis and/or cannabis product is maintained and/or stored for any length of time.

§ 93-7. Locations.

The following cannabis uses are permitted in the city zoning areas (table below) in compliance with all Restrictions noted in section 93-8, and contingent upon receipt of all appropriate approvals, including but not limited to issuance of a special use permit and site plan review by the City Zoning Board of Appeals and Planning & Development Board.

Zoning Area	Allowable Adult Use Cannabis Types
Single Family Residential (SFR)	NONE;
Mixed Residential (MR)	NONE;
Central Business District (CBD)	Retail dispensary; on-site consumption;
Neighborhood Commercial (NC)	Retail dispensary; on-site consumption;
Regional Commercial (RC)	Retail dispensary; on-site consumption;
Mixed Commercial & Industrial (MCI)	Cooperative, delivery, distribution, microbusiness, nursery, retail dispensary, warehouse;
Industrial (I)	Cultivator, nursery, warehouse;
Bethlehem Redevelopment Area (BRA)	Cultivator; nursery, warehouse.

§ 93-8. Penalties.

- A. Any business or entity operating without the required notification to the City, business registration or special use permit, or otherwise in violation of this ordinance shall be subject to a fine of up to one thousand five hundred dollars (\$1,500).
- B. Any business or entity operating without the required OCM license shall be considered a separate violation and subject to a daily fine of one thousand five hundred dollars (\$1,500) per day until the OCM license is obtained.

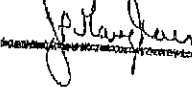
THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

Dated: March 19, 2024
Lackawanna, New York

APPROVED:


ANNETTE IAFALLO
Mayor

APPROVED
AS TO FORM AND SUFFICIENCY


City Attorney

The Lackawanna City Code (which mirrors NYS Cannabis Law) states:

§ 93-9. Security.

Any cannabis use set forth above, regardless of its location, shall take all necessary security measures at any facility permitted by a special use permit. Unless otherwise required as a condition of the special use permit, the following requirements must be met.

- A. All facilities where a cannabis use shall be established shall provide for fencing and/or other screening or security feature acceptable to the City Zoning Board and the City Council around the perimeter of the property at the height and type established by the Planning Board.
 - B. All facilities where a cannabis use shall be established shall install a fully operational 4K camera system, at a minimum, sufficient to be used at night and covering all areas on the property to be so used. The system used shall be capable for video and audio recordings and all recordings must be kept for a minimum of thirty (30) calendar days.
 - C. In any facility where a cannabis use is established where the general public and/or customers are invited shall provide for continual armed security guard presence while such facility is open to the public. Any such security presence shall be certified by the local, state, or federal government and shall provide such information as may be required by any local police agency from time to time.
 - D. In any facility where a cannabis use is established where the general public and/or customers are invited shall provide for secure locations where cash is to be kept on the premises.
 - E. In the event of deliveries from the cannabis use facility, provisions shall be made for adequate security consistent with these regulations which must be provided in advance to the Lackawanna Police Department and any local, state, and/or federal police agency.
 - F. Home cultivation cannabis shall be screened from view from neighboring properties and shall otherwise be secured with appropriate fencing to deter removal by third parties.
 - (1) No cannabis shall be cultivated, grown, planted, and/or maintained in any front or side yard.
 - (2) Individuals cultivating, planting, growing, or maintaining any cannabis plants shall register with the Code Enforcement Office providing their name, address, and location of any plants prior to cultivating, planting, growing or maintaining any cannabis plants.
 - (3) Sufficient setbacks shall be maintained at all times of no less than fifteen (15) feet from any property line
- It is my understanding that Yeti is a dispensary ONLY and not a place for "use." Thus, no need for armed security as long as cannabis is not used on/at the subject premises.

Please contact me/us with any questions. Thank you. JPG

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READ 18-22 SECTIONS

Guidance for Adult-Use Retail Dispensaries

Introduction

The Cannabis Control Board (the Board) has the authority, pursuant to Section 85 of the Cannabis Law, to promulgate regulations governing licensed adult-use dispensaries. Once adopted and effective, the regulations will serve as the rules that all licensees must follow to remain compliant with the Cannabis Law. A copy of the final regulations will be available on the Office of Cannabis Management's (the Office) website.

In the interim, this guidance document serves to provide the framework that will assist Conditional Adult-Use Retail Dispensary licensees plan for how to operate their dispensary before regulations are formally adopted, pursuant to Title 9 Part 116 Section 7 of the New York, Codes, Rules and Regulations (9 NYCRR §116.7). Compliance with any current and future state rules, regulations, and laws is required by all licensees to remain in good standing with the Office. This guidance document provides clarity on what the Office's expectations are in relation to those regulations and laws currently in place and the regulations that will be promulgated in the future. Such future regulations are subject to change, consistent with the process pursuant to the State Administrative Procedures Act.

Adult-use cannabis licensees who are not in compliance risk their license being cancelled, suspended, or revoked or other enforcement actions being taken, as authorized by Cannabis Law and Title 9 of the New York, Codes, Rules and Regulations (9 NYCRR).

Changes in the February 1, 2023 revision to this guidance include:

- Additional clarification (page 6) that a dispensary may operate for fewer than 70 hours in a week if the licensee chooses to;
- Additional clarification (pages 18-20) regarding dispensary proximity to school grounds, houses of worship, public youth facilities, and other dispensaries; and
- Added a link to the Municipal Contact Form (page 21).

Changes in the March 11, 2024

- Updated location and licensed premises section (18-20) which includes a link to the Proximity Protected Location Map: <https://data.ny.gov/Economic-Development/Proximity-Protected-Locations-for-Adult-Use-Retail/tuiq-k9f8>

Key Recordkeeping Requirements

- Conditional Adult-Use Retail Dispensary (CAURD) applicants may be asked to submit the records and plans described in this guidance on the CAURD application and at the request of the Office. Failure to submit, or refusal to submit, required materials may subject CAURD applicants to denial or non-selection of the applicant for a CAURD license.



- CAURD licensees have an ongoing obligation to maintain up-to-date versions of all records and plans described in this document or submitted with their application. Licensees must submit such records to the Office upon request and have an ongoing obligation to disclose to the Office material changes in such records and plans. Licensees' noncompliance with requests for such information from the Office may be grounds for a penalty or the surrender, suspension, revocation, or non-renewal of the CAURD license.

1. **Definitions.** For purposes of this guidance, the following terms shall have the following meanings:

- **“Attractive to Individuals Under 21”** means labeling, packaging, advertising, and marketing that is pleasing or appealing to persons under the age of twenty-one by using or including, among other things:
 - cartoons;
 - bubble-type or other cartoon-like font;
 - bright colors that are "neon" in appearance;
 - similarities to products or words that refer to products that are commonly associated with or marketed in a manner so as to be attractive to individuals under twenty-one, including but not limited to, any imitation of food, candy, soda, drinks, cookies, or cereal, in labeling, packaging, advertising, or marketing ((with the exception of cultivar names or the licensee's name, entity name, or doing business as name; this does not preclude retail dispensaries from offering permissible forms of cannabis products with compliant packaging);
 - terms “candy” or “candies” or variants in spelling such as “kandy” or “kandeez” (with the exception of cultivar names or the licensee's name, entity name, or doing business as name);
 - symbols, images, characters, public figures, phrases, toys, or games that are commonly used to market products to individuals under the age of twenty-one; or
 - images of individuals who could reasonably appear to be under the age of twenty-one.
- **“Brand” or “Branding”** means the name, entity name, or doing business as name, registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker that identifies one adult-use cannabis licensee or adult-use cannabis licensee's cannabis products as distinct from those cannabis products of other adult-use cannabis licensees and is used in, among other things, any packaging, labeling, marketing or advertising.
- **“Public youth facility”** means a means a location or structure owned by a government or government subdivision or agency, that is accessible to the public, where the primary purpose is to provide recreational opportunities or services to children or adolescents of whom the primary population is reasonably expected to



be seventeen (17) years of age or younger. In order for a municipality to designate a location as a public youth facility, the municipality must pass a local law.

“Customer” means “cannabis consumer” as defined in Article 1 of the Cannabis Law.

- “Exit package” means the receptacle into which cannabis products within a retail package are placed at the retail point of sale. The exit package is optional.

2. Branding. Licensees may operate under a “doing business as” name.

Licensees cannot misrepresent their business as a medical cannabis dispensary. Branding cannot describe the type of service or class of products sold by the dispensary using the terms “drug”, “drug store”, “medicine”, “apothecary”, “doctor”, or “pharmacy.” This includes similar terms like “pharma-” or “medi-” and terms not included on the list that have the same meaning as the terms on the list. This prohibition includes medical cannabis dispensaries that may be authorized to sell adult-use cannabis, except branding that appears on medical cannabis products at such premises and branding that is only intended to be seen by patients in patient-only areas of the premises. Licensees are also prohibited for representing their business as producing or selling “organic” or “craft” products, until such definition is authorized by the Office.

Licensees cannot appeal to individuals under twenty-one in their marketing or advertising, including their branding. Branding cannot use images, fonts, colors, or messages that would be attractive to individuals under twenty-one, as defined in this guidance. Licensees should refer to the [Packaging, Labeling, Marketing, and Advertising Guidance](#) for additional information.

3. Staffing. Licensees must designate an Employee in Charge who is twenty-one (21) years of age or older, responsible for managing the core day-to-day function of the dispensary. This is the person responsible for submitting required reports and notifications to the Office. An individual cannot be the Employee in Charge of more than one dispensary at a time.

The Employee in Charge must maintain the dispensary’s staffing plan and update the plan within five business days of any change in an individual’s employment status. The staffing plan should, at minimum, include the name, contact information, and age of all workers involved in activities related to the sale of cannabis products.

A licensee cannot hire anyone under the age of eighteen (18) and only workers who are at least twenty-one years of age can have direct interactions with customers inside the dispensary, transport cannabis products in any way, or be involved in any delivery operations. Workers that do not fulfill such customer-facing roles must be at least eighteen years of age.



4. Training, Health, and Safety. Licensees are responsible for the actions of their workers and are responsible for ensuring their workers possess the education and training required to do their jobs. Licensees must provide adequate supervision of staff, including trainees, by persons familiar with operating procedures.

Training Manual. Licensees must maintain a written training manual. The training manual must be available to all workers, and it must include, at a minimum:

- Worker guidelines and security, operating, and safety procedures, including, but not limited to:
 - daily opening and closing procedures;
 - security, customer admittance, and customer traffic-control procedures;
 - ordering and point of sale procedures;
 - delivery service procedures (*if the licensee delivers to customers*);
 - product inventory intake procedures;
 - product return and disposal procedures;
 - emergency procedures; and
 - an explanation of how workers will monitor for and prevent sales to customers where there is a risk to health or safety, underage or illegal sales of cannabis products, or any other criminal activity within the licensed premises;
- Information about all types of cannabis products the dispensary sells or plans to sell, including, but not limited to:
 - Product types;
 - Serving size;
 - Onset and duration of effects, if applicable;
 - Method of administration;
 - Warnings for use; and
 - Tips for secure storage and proper disposal;
- Customer privacy and confidentiality requirements; and
- Alcohol-free, drug-free, and smoke-free workplace policies

Required Training. Licensees must ensure that all workers are trained in compliance with the training manual, including the minimum curriculum below or any worker certification program authorized by the Board. The Employee in Charge must maintain signed and dated records that all workers have been trained within thirty days of their hiring. Records must include the name and hire date of each employee (with a list of all trainings received by that employee) and a copy of any training materials used other than the training manual.

Trainings must occur during a worker's normal work hours and workers must be compensated their normal rate of pay while completing required trainings. Training does not need to be completed in one session or one day. Training does not need to be



conducted by the licensee; licensees are permitted to utilize a third-party trainer to conduct some or all of the required training.

Required training must include the following minimum curriculum:

- History of cannabis use, prohibition, legalization;
- Ensuring safe use of cannabis, including, but not limited to:
 - Cannabis physical effects on the human body;
 - Advice for recognizing signs of impairment;
 - Appropriate responses in the event of overconsumption;
 - Safer storage of cannabis products;
 - Explanation of required text on cannabis product labeling;
 - Risks of cannabis use and over-use, including cannabis use disorder dependency;
 - Risks of operating any vehicle (including watercraft) under the influence;
 - Explanation of consumer education materials; and
 - Overview of marketing and advertising prohibitions;
- Prevention of sales to individuals under twenty-one, including, but not limited to:
 - How to check customer photo identification;
 - Spotting fraudulent identification; and
 - Provisions for safely confiscating fraudulent identification;
- Security and surveillance of licensed premises;
- Emergency procedures;
- Compliance with, and operation of, inventory tracking systems;
- Relevant state and federal laws or regulations;
- Permitted investigations or inspections of the premises;
- License suspension, revocation and renewal;
- Civil and criminal penalties;
- Cannabis product waste disposal; and
- Practices for maintaining customer privacy and confidentiality.

Licensees must ensure that all workers have access to hand washing and toilet facilities on the licensed premises and must maintain such facilities in clean and sanitary condition, maintaining records of regular cleaning and sanitizing of such facilities. All personnel shall handle cannabis products in a sanitary manner, maintain adequate personal cleanliness, and wash and sanitize hands thoroughly in an adequate hand-washing area before starting work, after each visit to a restroom, after handling contaminated material, eating, or at any other time when hands may have become soiled or contaminated.



5. Hours of Operation. Licensees may only be available to sell cannabis products, including through delivery, during their hours of operation. Municipalities are authorized to pass local laws and regulations governing the time, place, and manner, including the hours of operation for adult-use retail dispensary, which:

- Shall not be allowed to operate from 2:00 AM to 8:00 AM, unless given express written permission by such municipality, or the municipality passes a local ordinance, authorizing it to operate beyond such hours; and
- Shall not restrict operations to less than 70 hours a week provided however, this provision shall not be construed as removing the licensees' discretion to operate for less hours of operation.¹

This does not prohibit licensees from allowing customers to place orders, such as through an online website or application, or accepting payment for those orders outside of the licensee's hours of operation but does prohibit licensees from providing the customer with any cannabis products they have ordered (including through delivery) until the licensee's hours of operation begin.

6. Customer Age. Dispensary workers must inspect a customer's identification before that customer can purchase cannabis or cannabis products. As explained in the **Delivery to Customers** section of this guidance, additional identification inspections may be necessary to complete delivery transactions.

Valid identification for the purpose of determining a customer's age includes:

- a valid federal, state, or local government identification, including IDNYC or a NYS Benefit identification card, stating the customer's age and a photograph of the individual's face;
- a valid driver's license or non-driver identification card issued by the department of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada;
- a valid passport issued by the United States government or any other country; or
- an identification card issued by the armed forces of the United States.

Adult-use cannabis products **cannot** be sold to individuals under twenty-one years of age. Workers are not required to decline a sale to an individual who is at least twenty-

¹ This means a dispensary can choose to operate for fewer than 70 hours a week, but a local government shall not limit a dispensary's hours of operation so greatly that the dispensary does not have the option to operate for at least 70 hours a week.



one solely because they are accompanied by an individual under twenty-one years of age. However, if a worker believes, based on the information available to them, that the sale would create a risk of diversion of cannabis products to an individual under twenty-one years of age, they must decline such sale.

7. Purchase of Cannabis Products. Licensees are only authorized to purchase cannabis products from licensees authorized for distribution². Licensees authorized for distribution (referred to herein as distributors) must sell cannabis products to any adult-use retail dispensary licensee willing to pay cash³. The Office reserves the right to investigate any sources of payment made by a dispensary to a distributor.

Distributors may, but are not required to, allow licensees to pay on credit. All agreements to purchase cannabis on credit must be reported to the Office with the terms of payment and credit. Licensees that purchase cannabis products on credit have 90 days to pay for that purchase. Distributors must report licensees to the Office who are delinquent in payment⁴. The Office reserves the right to invalidate agreements that it deems commercially unreasonable or where discriminatory pricing practices are suspected, and all licensees shall comply with future rules and regulations related to acceptable terms of credit.

For purposes of contesting and validating such claims in dispute before the Office, licensees must keep dated records of all accounts payable and payments made and provide such records upon request by the Office within 48 hours, unless a period of time longer than 48 hours is permitted by the Office in writing.

8. Inventory. Licensees may only offer for sale:

- cannabis products obtained from a distributor;
- cannabinoid hemp products (if licensed to do so);
- cannabis paraphernalia;

² At this time, only Adult-Use Conditional Cultivators and Adult-Use Conditional Processors are authorized for distribution, and Adult-Use Conditional Cultivators may only distribute cannabis flower products, such as whole flower, ground flower, or pre-rolls.

³ For purposes of this section, "Cash" means U.S. currency, certified check, money order, electronic funds transfer, bank officer's check or draft, or a check drawn on the licensee's account payable to the distributor. Checks cannot be from third parties. Checks drawn on retail dispensaries' accounts cannot be post-dated. Distributors do not have to accept checks drawn on retailer's accounts.

⁴ The Office will maintain a list of all licensees delinquent in paying for cannabis products purchased on credit from distributors. Distributors cannot sell on credit to any retailer on the delinquent payment list.



- stationary, gifts, and other minor incidentals⁵;
- branded merchandise and apparel containing the licensee's brand, including jewelry and accessories (in adult sizes only); and
- other items as approved by the Office.

Notwithstanding the list above, licensees cannot offer for sale:

- food or beverages that do not contain cannabis, except water;
- tobacco or any product containing tobacco or nicotine;
- any items that are commonly associated with—or marketed in a manner so as to be attractive to—individuals under twenty-one including, but not limited to, candy, toys, and games; and
- apparel or merchandise, including jewelry or other accessories, that reference a brand other than the licensee's.

9. Inventory Tracking System. Licensees must use an inventory tracking system capable of compiling the dispensary's cannabis product inventory, transaction data, and tax liability. That system must be compatible and capable of reporting real-time data to the Office.

Licensees must:

- accurately record all inventory in the inventory tracking system;
- maintain, real-time, at a minimum, the following information, in the inventory tracking system:
 - batch and/or lot unique identifiers for cannabis products that will track each cannabis product sold by the dispensary back to the source of cultivation and processing in the event of a recall;
 - a complete cannabis product inventory, as well as inventory adjustments from sale, disposal, product return, or any other activity;
 - any other information as determined by the Office;
- utilize an inventory tracking system that is capable of integrating with the Office's seed-to-sale tracking system of record in a form and manner⁶ determined by the Office;
- utilize a standard of measurement, as defined by the Office, that is supported by the inventory tracking system to track all cannabis product;
- track, at a minimum, the following data elements for each activity (transaction, quarantine, disposal, etc.) performed with cannabis products;

⁵ Objects sold may depict cannabis or otherwise reference cannabis, provided they do not reference a specific cannabis product or brand.

⁶ The Office will provide additional information on the form and manner of integration at a later date.



- type of cannabis products;
- weight, volume, or count of the cannabis products;
- date of activity;
- lot unique identifier assigned to the cannabis products;
- identification of the worker performing the action in the inventory tracking system;
- type of activity being performed; and
- any other information as determined by the Office;
- review the licensee's authorized users on a regular basis and remove any users who are no longer authorized to enter information into the inventory tracking system.

Loss of System Access. If at any point a licensee loses access to the inventory tracking system for any reason, the licensee must keep and maintain comprehensive records detailing all inventory tracking activities that were conducted during the loss of access, including customer transactions. A licensee cannot initiate transport for, receive, transfer or deliver any cannabis products to another licensed entity until access is restored. Licensees are not required to continue sales to customers during a loss of system access, but if sales may safely continue during such loss, then the licensee may choose to do so. Licensees that continue sales during a loss of system access must have a process in place to continue to provide receipts to customers during a loss of system access if the licensee wishes to continue sales during such loss.

Once access is restored, a licensee must document, at a minimum, the date and time when access to the system was lost; the date and time when access to the system was restored; and the cause for loss of access.

Within three calendar days of access being restored, all licensed cannabis activity that occurred during the loss of access must be entered into the inventory tracking system unless otherwise approved by the Office.

Initial Inventory. A licensee shall conduct an initial comprehensive inventory of all cannabis product in the possession of the licensee at the authorized premises on the date the cannabis licensee first engages in the sale of cannabis products to customers.

- Inventory shall include damaged, defective, expired, or adulterated cannabis products awaiting disposal, including the name, the quantity, and the reasons for which the licensee is maintaining the cannabis product.
- The initial comprehensive inventory shall be reported to the Office utilizing the inventory tracking system.
- Licensees shall establish inventory controls and procedures and conduct comprehensive inventories of cannabis products which shall include the following:



- Maintaining real-time inventory tracking;
- Conducting a monthly inventory audit of all cannabis products; and
- For each audit, recording at a minimum, the following, in the inventory tracking system;
 - name(s) and signature(s) of worker(s) who conducted the inventory audit;
 - date of the inventory audit;
 - summary of inventory findings; and
 - any other information as determined by the Office.
- A licensee, upon becoming aware of discrepancies identified during an inventory audit, shall notify the Office no later than twenty-four hours after discovery of the event in a manner prescribed by the Office.

10. Product Display Samples. Licensees may display cannabis product samples and make these samples available to customers for inspection. Customers cannot consume the samples or take them out of the dispensary, but may smell or otherwise inspect the samples. Display samples must be handled in a sanitary and secure manner at all times. When they are not being inspected by customers, samples can be displayed in a case or kept elsewhere on the premises, but they must be kept in a secure, locked place.

11. Menus and Prices. Licensees must clearly designate the price of all items for sale. Licensees are required to clearly communicate the price of all items to customers, whether provided in-person, online or over the phone.

Any items that are displayed for sale in the interior of the dispensary must have a price tag, sign, or placard stating the item's price and total cost (including tax). Licensees are not required to make a "menu" available to customers inside the dispensary, but any menus – including those posted online – must include the price and total cost (including tax) of each item for sale.

Licensees cannot give away, including through donation, any cannabis products. Licensees cannot advertise giveaways, discounts, price reductions, points-based reward systems, or customer loyalty programs including, but not limited to, by using the words "sale", "free", "price drop", or "discount" on a menu, in any communications to customers, or elsewhere. This does not prohibit licensees from changing the price of cannabis products or otherwise "discounting" products.

12. Customer Transactions. All customer transactions, regardless of whether they occur in-store, at a drive-thru window or area, or through delivery, must be completed by the



licensee's employees or a person authorized to complete such transactions as approved by the Board. Licensees cannot allow individuals not employed by the licensee, or any entity that is not the licensee, to fulfill customer orders. Licensees cannot fill pre-orders that are placed on websites that are not registered to the licensee. Prohibited arrangements include, but are not limited to, licensees utilizing third-party entities to solicit, accept, or deliver customer orders.

All distributor to retailer transactions and all customer transactions, regardless of whether they occur in-store, at a drive-thru window or area, or through delivery, must result in an entry in the licensee's inventory tracking system. This entry must include, at a minimum:

- Each item sold and that item's:
 - Price;
 - Amount of tax due, including a separate delineation for each tax imposed on adult-use cannabis pursuant to Article 20-C of Tax Law (*if a cannabis product*);
 - Quantity sold in that transaction; and
 - Form of the product (*if a cannabis product*);
- Worker completing the transaction;
- Device used to complete the transaction;
- Transaction's unique identifier; and
- Date and time of the transaction.

Customers must be offered a receipt after each transaction. This receipt can be physical or digital, but must include the:

- Name, address, and license number of the dispensary;
- Date and time of sale;
- Form and quantity of cannabis products and any other items sold;
- Worker completing the transaction; and
- Amount of tax due, including a separate delineation for each tax imposed on adult-use cannabis products pursuant to Article 20-C of Tax Law.

A licensee **cannot** retain a customer's personal information for marketing and advertising purposes unless a customer consents to the information being retained for this reason.

After the transaction, the products may be placed into an exit package for the customer. An exit package is not required, and customers may provide their own exit package, such as a reusable bag or backpack. If the licensee provides an exit package, it may only contain the licensee's brand name and logo. Selling messages, mottos, and other brand markers (besides the brand name and logo) are not allowed on the exit package.



13. Consumer Education. Licensees must post or provide consumer education materials to be available to consumers, as made available by the Office. Consumer education materials may take any form and must have a primary purpose of educating consumers about safer consumption of cannabis products. If the materials make specific claims about cannabis products or studies, then these claims must clearly cite their sources.

14. Drive-thru Window/Pick-up Lane. All retail dispensaries must be in a physical brick-and-mortar store. In addition to services offered inside of the store, licensees may operate a drive-thru service window and/or drive-thru pre-order customer pick-up lane but must have written approval⁷ from the Office before such operation may begin. A drive-thru service window is an area of the premises where customers can consult with dispensary workers and complete transactions without entering the store. A drive-thru pre-order customer pick-up lane is an area of the premises where customers can pick-up orders placed in advance without entering the store.

Licensees can allow customers to enter a drive-thru service window or drive-thru pick-up lane in any form of transportation, including on foot, but the licensee must ensure customer safety in all drive-thru areas.

In addition to any drive-thru windows or pick-up lanes outside of the store, licensees can establish express lanes inside the store for customers who have placed orders for pick-up. Such areas must be clearly defined on a site plan, but operating these in-store pick-up areas does not require written approval from the Office.

15. Delivery to Customers. All retail dispensaries must be in a physical brick-and-mortar store. In addition to services offered inside of the store, licensees may provide delivery services if the training manual includes written procedures for how workers will provide delivery service. No more than twenty-five employees (or the full-time equivalent thereof) may provide delivery services for the licensee per week.

Customers must pay for delivery orders directly. A dispensary employee cannot first purchase the cannabis product and then be reimbursed by the customer. Unless ordering in-person, the customer must attest when placing their order that the individual ordering is twenty-one years of age or older. If the individual placing the order will not be the individual accepting the order, the individual placing the order must also attest that the individual accepting the order is over twenty-one years of age.

Before providing the cannabis product to the customer, the employee completing the delivery must verify the identity and the age of the individual accepting the order at the

⁷ The Office will provide a form to be completed by licensees who wish to operate a drive-thru service window or drive-thru pick-up window.



point of delivery or curbside pick-up by viewing a document described in the **Customer Age** section above.

The identity of the individual who placed the order and, if applicable, the individual who accepted the order must be recorded in the licensees' point-of-sale system.

Please note: Please view the [CAURD Delivery Guidance](#) for additional information about delivery for CAURD licensees.

16. Means of Transport and Delivery. The licensee must own (including possession through a lease) any motorized or unmotorized vehicle it uses for any transport of cannabis products. Unless another method is approved by the Office, only ground transport (such as a car, van, bike, foot, etc.) can be used for delivery.

The transportation used for all transport of cannabis products must:

- Bear no signs, markings, advertisements or marketing that would identify or indicate that the transportation is used to transport cannabis products;
- If necessary, based on the distance and weather conditions of the transport, have temperature controls to prevent the cannabis products from deteriorating during transport;
- Secure the cannabis products in a fully enclosed and locked box, bag, cage, or other container;
- Only contain cannabis products that are on the shipping manifest for that transport; and
- Have an operating GPS system which can identify the delivery personnel's location at any time to the licensee and, if requested, the Office.

17. Transport and Delivery Records. Each time cannabis products are transported, including when cannabis products are being delivered to customers, licensees must maintain a shipping manifest and invoice for all cannabis products being transported. The worker that is transporting the cannabis products must carry verifiable proof⁸ that they work for the licensee at all times during the transport.

For Distributor to Retailer Transactions: Prior to the transport, the shipping manifest must be transmitted to the Office via the inventory tracking system and to the recipient of the transport. If multiple deliveries are being made in a single transport, the licensee must split the shipping manifest sent to the recipient of the transport such that the

⁸ An example of such verifiable proof would be an employee ID badge that had a unique identifier that could be used by the licensee to verify the badge as authentic.



recipient of each delivery only receives information applicable to their delivery. The shipping manifest must include:

- the name, physical address, and license or permit number of the originating Licensee;
- the name, physical address, and license number, if applicable, of the receiving party;
- the unique identification numbers for all cannabis products being transported;
- the cannabis product name, item category and weight or count of cannabis products associated with each package tag;
- the estimated date and time of departure from the licensed premises;
- the estimated date and time of arrival at each licensed premises or the consumer's address; and
- the driver's license number of the worker transporting the cannabis products, if motorized transportation is being conducted by the licensee producing the shipping manifest;
- the make, model, and license plate number of the transportation, if motorized transportation is being conducted by the licensee producing the shipping manifest; and
- any other information as determined by the Office.

For Retailer to Consumer Transactions: When cannabis product is delivered to a customer, the licensee must provide an invoice to the customer after completing the transport. At a minimum, the invoice must include:

- the name, location, address and license number of the licensee's facility;
- the name and address of the customer;
- the name and quantity of each item to be delivered to each customer;
- the name and signature of the customer and each worker performing or accompanying the delivery of the cannabis products;
- any other information as determined by the Office.

If the invoice also includes all information required to be on a receipt in the **Customer Transactions** section above, then the invoice can also be the customer's receipt.

18. Storage of Cannabis Products. Customers cannot have direct access to cannabis products while shopping unless inspecting samples with the assistance of authorized dispensary staff. Products may be displayed to customers only if locked behind a counter or other barrier. Licensees may utilize product displays or other branded elements to advertise the product within such locked counters or barriers, even if these elements are provided by another licensee. However, such product displays or other branded elements must comply with all restrictions on marketing and advertising. Products not intended for display should be secured in an area that is only accessible to



authorized workers and not visible to customers. Any counters, cases, safes, rooms, or other areas of the premises containing cannabis products (such as keys, passwords, or combination numbers), must not be accessible to customers or to workers who are not authorized to access such products.

19. Cleaning and Sanitizing. The licensee is responsible for the upkeep and maintenance of all facilities, containers, tools, contact surfaces, and equipment used in the sale of cannabis products. Cleaning and sanitizing shall be performed as frequently as necessary to maintain all facilities, areas, containers, tools, contact surfaces, and equipment in a clean and sanitary condition using a sanitizing agent registered by the U.S. Environmental Protection Agency (EPA) in accordance with labeled instructions.

20. Security Measures. Licensees must implement sufficient security measures to deter diversion, theft or loss of cannabis and cannabis products, theft or loss of cash, prevent unauthorized entrance into areas containing cannabis or cannabis products, and to ensure the safety of the licensee's workers and the general public. Licensees are permitted to hire armed service providers as part of their security measures, if they wish.

The licensee must take the following specific security measures:

- implementing and maintaining a security plan. A security plan must include, at a minimum, a description of the measures a licensee will undertake to:
 - prevent unauthorized access to the licensed premises by unauthorized persons and protect the physical safety of all individuals on the premises;
 - deter theft or loss of cannabis products;
 - prevent loitering and ensure that only individuals engaging in activity expressly or by necessary implication permitted by the Cannabis Law are allowed to remain on the premises of the licensee;
 - lock all perimeter doors and windows; and
 - provide for safe cash storage and handling, and transportation of cash to financial institutions;
- securing all entrances to the licensed facility to prevent unauthorized access;
- ensuring that both the inside, and the outside perimeter of the licensed facility are sufficiently illuminated to facilitate surveillance;
- maintaining trees, bushes and other foliage outside of the licensed premises so as to prevent a person from concealing themselves from sight.
- any other requirements as determined by the Office.



21. **Security System.** Licensees are required to have a security system at the dispensary that utilizes commercial grade equipment to prevent and detect diversion, theft, or loss. The system, at a minimum, must include:

- A perimeter alarm that communicates with an internal designee and a third-party commercial central monitoring station when intrusion is detected;
- Video camera surveillance in all areas that may contain cannabis products, all surveillance areas or rooms and at all points of entry and exit, and in any parking lot, which shall be appropriate for the normal lighting conditions of the area under surveillance. Video camera surveillance shall meet the following additional requirements:
 - video cameras shall be directed at all safes, vaults, sales areas, and any other areas where cannabis products are stored, handled, transferred or sold and for the purpose of securing cash;
 - video cameras shall be positioned at entry and exit points, and at each point-of-sale area, to allow for the capture of clear and certain identification of any person entering or exiting the facility or at the point-of-sale;
 - video cameras shall have the ability to immediately produce a clear color still photo from any camera image (live or recorded);
 - video recordings shall allow for the exporting of still images in an industry standard image format (including .jpeg, .bmp, and .gif). Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system;
 - video cameras shall include a date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly, measured in accordance with the U.S. National Institute Standards and Technology standards and shall not significantly obscure the picture;
 - video cameras shall produce continuous recordings during hours of operation and at any time that cannabis products are handled, and motion activated recordings at all other times;
 - For all video cameras, the licensee shall make available via remote access or login credentials for immediate viewing by the Office or the Office's authorized representative upon request. All recordings shall be retained for at least 60 days;
 - licensees shall make an unaltered copy of video camera recording(s) to the Office upon request;
 - if a licensee is aware of a pending criminal, civil or administrative investigation or legal proceeding for which a recording may contain relevant information, the licensee shall retain an unaltered copy of the



- recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the licensee that it is not necessary to retain the recording, but in no event for less than 60 days;
- o the physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft;
- a failure notification system that provides an audible, text or visual notification of any failure in the security system. The failure notification system shall provide an alert to the licensee's designated representative(s) within five minutes of the failure, either by telephone, email, or text message;
- the ability for the security alarms and video surveillance system to remain operational during a power outage for a minimum of eight hours;
- limiting access to any surveillance areas and keeping all on-site surveillance rooms locked. A licensee shall make available to the Office or the Office's authorized representative, upon request, a current list of all individuals who have access to any surveillance room or equipment;
- keeping all locks, storage and security equipment in full operating order and shall test and inspect such equipment at regular intervals, not to exceed 30 calendar days from the previous inspection and test. Records of security tests must be maintained for five years and made available to the Office upon request.

22. **Site Plan/Site Layout.** A licensee shall document, implement and maintain a site plan, which must be submitted to the Office in a manner and format determined by the Office⁹ consisting of the following information:

- Location of the licensed premises;
- activities performed in each area of the licensed premises;
- details of all parcel boundaries including but not limited to physical boundaries, roads, and water crossings of the property;
- location of sanitary facilities;
- perimeter dimensions;
- entrances and exits to both the property and premises (including emergency exits); and
- documentation that the dispensary meets the requirements placed on its location in the **Location of Licensed Premises** section below.

A licensee's Employee in Charge should ensure that the site plan stays up-to-date. Any changes to a licensee's site plan that do not require prior Office approval, shall be

⁹ Selected CAURD applicants eligible under the qualifying nonprofit criteria will be asked to submit this plan during Part 2 of the application.



submitted to the Office within 10 days of such change. The Office may request to see a licensee's site plan at any time.

23. Location of Licensed Premises. Certain retail dispensary licensees may be permitted to select the location of the licensed premises or relocate the location of the licensed premises. The location of the licensed premises must be reviewed and approved by the Office in order to receive proximity protection.

An adult-use retail dispensary must be located in a store, the principal entrance to which shall be from the street level and located on a public thoroughfare in premises which may be occupied, operated or conducted for business, trade or industry.

In addition to these standards, the licensed premises of the dispensary cannot be near school grounds or a house of worship, as stated in the Cannabis Law, or a public youth facility.

Proximity to School Grounds. A dispensary cannot be on the same road and within 500 feet of a building and its grounds occupied exclusively as school grounds, as defined in Section 409(2) of the New York State Education Law. This measurement will be taken in a straight line from the center of the nearest entrance of the nearest building occupied as a school, on the school grounds, to the center of the nearest entrance¹ of the premises that the licensee wishes to locate the dispensary at. Only entrances that are regularly used to give ingress to patrons of the establishment will be used to determine distance. Emergency or fire exits, maintenance access, or doors to non-public areas of the premises will not be considered in this measurement.

- If the entrance being used for the measurement is set back from the sidewalk by a walkway or doorway, the center of the line where the walkway or doorway meets the sidewalk is used for the measurement.
- If the premises is a multi-story building, the building entrance at street level is used.
- If school grounds, public youth facility or the establishment are situated on a corner lot, the school grounds, public youth facility or the establishment are considered to be on both streets of the intersection, whether or not there is an entrance to the building are on both streets.

¹ For the purpose of measurements between two premises, "entrance" means a door of a school, of a place of worship, or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises proposed to be licensed, except that where a school or place of worship is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. "Entrance" does not mean a door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons.



Proximity to houses of worship. A dispensary cannot be on the same street or avenue and within 200 feet of a building occupied exclusively as a house of worship. This measurement will be taken in a straight line from the center of the nearest entrance to the building used for the house of worship to the center of the nearest entrance of the premises that the licensee wishes to locate the dispensary at. Emergency or fire exits, maintenance access, or doors to non-public areas of the premises will not be considered in this measurement.

- If the entrance being used for the measurement is set back from the sidewalk by a walkway or doorway, the center of the line where the walkway or doorway meets the sidewalk is used for the measurement.
- If the premises is a multi-story building, the building entrance at street level is used.
- If the house of worship or the establishment are situated on a corner lot, the house of worship/establishment are considered to be on both streets of the intersection, whether or not there is an entrance to the building on both streets.

A house of worship and school grounds does not need to exclusively be used for religious services to be considered a house of worship. A house of worship will still be considered a house of worship if:

- it is used for games or performances that raise funds for a nonprofit organization;
- it is used by multiple religious groups;
- it is used for public or private social activities by, or for the benefit of, congregants;
- it is used for meetings held by organizations or groups that provide bereavement counseling or provide advice or support for conditions or diseases;
- it is used for blood drives, health screenings, health information meetings, yoga classes, exercise classes, or other activities that promote the health of its congregants;
- it is used by members of the community that are not congregants for private social functions.

Proximity to other dispensaries. Unless explicitly approved otherwise by the Office, a dispensary cannot be located anywhere within a certain radius of another premises that is already licensed as an adult-use retail dispensary including Registered Organization dispensing facilities that are or intended to be co-located. The size of that radius depends on the population of the city, town, or village that the new dispensary will be located in and is based upon the most recent American Community Survey (ACS) 5-year estimate of that municipality's population.

City, Town, or Village Population	Radius
20,000 or more	1,000 feet
Less than 20,000	2,000 feet

To determine if a new dispensary would be located too closely to another dispensary, the measurement will be taken in a straight line from the center of the nearest entrance

Originally Posted: October 28, 2022

Revised: March 11, 2024



of the existing dispensary to the center of the nearest entrance of the premises that the licensee wishes to locate the new dispensary at. Only entrances that are regularly used to give ingress to patrons of the establishment will be used to determine distance. Emergency or fire exits, maintenance access, or doors to non-public areas of the premises will not be considered in this measurement.

- If the entrance being used for the measurement is set back from the sidewalk by a walkway or doorway, the center of the line where the walkway or doorway meets the sidewalk is used for the measurement.
- If the premises is a multi-story building, the building entrance at street level is used.
- If the premises is situated on a corner lot, it is considered to be on both streets of the intersection, whether or not there is an entrance to the building on both streets.

To assist provisional licensees and applicants identify potential locations for their retail dispensary, please consult the Office's Proximity Protected Location Map (PPLM) available [here](#). The PPLM displays the locations of licensed and provisional cannabis dispensaries, and those proposed cannabis dispensary locations on applications that are still under review, but which are afforded proximity protection because the locations comply with all distancing and proximity requirements until a final determination is made on the corresponding applications.

The PPLM is intended to help prospective or licensed conditional adult-use retail dispensaries, adult-use retail dispensaries, microbusinesses and registered organizations with dispensing (ROD) and registered organizations identify potential locations for a cannabis dispensary in accordance with the distance and proximity requirements set forth in the Cannabis Law and its associated regulations.

Notification to Municipalities. Before being issued a license, applicants must follow the local notification procedure pursuant to Cannabis Law. The procedure and form for making this notification [is available on the Office's website](#).

24. Store Interior. Licensees must post inside the store, in a manner to ensure the information is plainly visible to all customers:

- The licensee's retail dispensary license;
- Hours of operation;
- Notification that "Consuming cannabis is not allowed on this premises.";
- Notification that "Cannabis can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of cannabis.";
- Notification that "Using cannabis, in any form, while you are pregnant or chest/breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of cannabis use during pregnancy or while



chest/breastfeeding.”; and

- Notification, in **bold** and including capital letters as indicated, that “**Adult-use cannabis products are for use only by persons 21 years and older. KEEP OUT OF REACH OF CHILDREN AND PETS.**”

Licensees must ensure that the interior of the store is kept in an orderly manner, even during periods of heavy customer traffic. This may require licensees to utilize a line with stanchions, pre-orders, an appointment schedule, a pick-up lane, or other traffic control methods.

25. Store Exterior and Outdoor Areas. Licensees cannot have more than two signs outside of the store¹¹. Exterior signs must be affixed to a building or permanent structure (such as a signpost). Exterior signs cannot be larger than necessary to reasonably display the information on the sign to individuals within or near the licensed premises. Signs **cannot** include a licensee’s logo, symbol, or any images, including, but not limited to, depicting cannabis, cannabis products, or the imagery or action of smoking or vaping. Signs cannot include mottos, selling messages, or any other non-essential text. Signs outside of the store can only, at a maximum, include text that is the licensee’s:

- Business or trade name;
- Location and contact information; and
- Business type (i.e. “adult-use cannabis dispensary” or similar phrase. This cannot be the licensee’s selling message or motto).

¹¹ This may include signs that are indoors depending on the nature of the premises. For example, if the dedicated entrance to the dispensary is within an indoor mall, then signs outside of the store, but within the mall, would count towards this limit, even though the signs would not be outdoors.



Licensees must ensure that no cannabis products are displayed in an area that is visible from outside the store and that no advertisement, unless it is a permitted outdoor sign, can be seen from a school ground (as defined in Education Law), childcare center, playground, public park, or library.

Licensees must ensure that customers do not impact the ability of individuals to utilize the public thoroughfare on which the premises is located, even during periods of heavy customer traffic. This may require licensees to utilize a line with stanchions, pre-orders, an appointment schedule, a drive-thru pick-up lane (if the licensee has written approval to do so), or other traffic control methods. Under no circumstances is the use of cannabis products to be permitted anywhere on the premises inside or outside of the store.

Licensees must also comply with local ordinances and rules related to odors, noises, parking, and other nuisances not preempted by Office regulations or determined to be unreasonably impracticable by the Board.

26. Marketing and Advertising. Licensees must comply with all marketing and advertising standards as set in regulation by the Board or [in guidance from the Office](#).

27. Quarantine/Remediations/Recalls>Returns. A licensee shall establish written policies and procedures to monitor and track all quality assurance concerns and complaints from licensees and customers, including, but not limited to, procedures for rapid notification to the licensees' supply and distribution chain to recall any cannabis product when directed by the Office, or as deemed necessary by the licensee. Such procedures must include notification to the Office with 24 hours of learning of a serious adverse event, quality assurance concern or initialing a recall.

Implemented written procedures for recalling a cannabis product, whether initiated by the licensee or mandated by the Office, shall include:

- identification of factors that necessitate recall and personnel responsible for implementing the recall procedures;
- notification protocols, including a mechanism to notify the Office within 24 hours of initiating a recall and to notify any licensee that supplied or received the recalled cannabis product;
- instructions to the general public and other licensees for the return or destruction of the recalled cannabis products; and
- a requirement that all recalled products held by a licensee must be held in quarantine until the Office authorizes additional actions.



All inventories, policies and procedures and other documents required by this section shall be maintained on the licensed premises and shall be made readily available to the Office upon request. Documents may be stored electronically if they are readily available from the licensed premises.

A licensee shall not sell or transfer a cannabis product that has been placed on administrative hold by the Office, recalled, or ordered or otherwise required to be destroyed. Such cannabis products shall be stored securely and separate and apart from other cannabis products while awaiting final disposition.

A licensee shall not sell or a transfer a cannabis product after the printed expiration date on the package.

- 28. Disposal.** Licensees must dispose of any cannabis product that is beyond the date of expiration, damaged, deteriorated, contaminated, or otherwise deemed not appropriate for sale.

Cannabis product waste shall be maintained in a secured waste receptacle or secured area on the licensed premises until the time of disposal. All exterior cannabis waste receptacles located on the licensed premises shall be locked and secured to prevent unauthorized access. All disposal of cannabis products must be conducted in compliance with all applicable state and local laws, rules, regulations, and guidance.

Method of Disposal. Cannabis waste may be disposed of using one of the following methods:

- Deliver cannabis waste to a New York State Department of Environmental Conservation permitted solid waste management facility for final disposition.
- Manage disposal on-site by the licensee in accordance with the requirements of the New York State Department of Environmental Conservation.
- Return the cannabis waste to the distributor which sold the product to the licensee.

A licensee who is using another entity to transport cannabis waste must maintain and make available to the Office upon request the business name, address, contact person, and contact phone number of the permitted or registered New York State Department of Environmental Conservation waste transporter transporting the cannabis waste; and obtain documentation from the waste transporter transporting the cannabis waste that evidences subscription to a waste collection service.

A licensee who is self-transporting cannabis waste shall be subject to the following additional requirements:



- The licensee or its employees shall be registered or permitted as a waste transporter in accordance with the New York State Department of Environmental Conservation's regulations.
- Self-transported cannabis waste shall only be transported by the licensee or its workers;
- Self-transported cannabis waste shall only be transported to a solid waste management facility that is permitted by the New York State Department of Environmental Conservation to accept cannabis waste; and
- The licensee or its worker who transports the cannabis waste shall obtain for each delivery of cannabis waste a copy of a record, indicating the amount of cannabis waste transported to the permitted solid waste management facility or receipt from the permitted solid waste management facility.

Record of Disposal. All cannabis waste disposed of shall be weighed, recorded and entered into the inventory tracking system prior to, and after, disposal. Licensees shall maintain records of disposal for at least five years, and make available to the Office for inspection, which shall include:

- the form (or type) cannabis product being disposed;
- the quantity of the cannabis product;
- the batch or lot number, as applicable, of the cannabis product;
- the signatures of at least two of the licensee's workers who witnessed the disposal; and
- any other information as determined by the Office.

29. Inspection/Audits. Licensed premises, all vehicles used for transporting cannabis products, and all records including, but not limited to, financial statements and corporate documents, shall be subject to inspection by the Office, by the duly authorized representatives of the Office, by any peace officer acting pursuant to their special duties, or by a law enforcement officer.

The Employee in Charge shall be available and present for any inspection required by the Office. An inspection may include, but is not limited to, ensuring compliance by the licensee with all requirements of the regulations pursuant thereto, and other applicable state and local building codes, fire, health, safety, and other applicable laws and regulations.

Any deficiencies identified by the inspection shall be documented in a statement of findings by the Office and require that the licensee submit a written plan of correction in a format acceptable to the Office within 30 calendar days of the issue date of the statement of findings.



Any inspection finding which the Office determines jeopardizes the immediate health, safety, or well-being of the public shall be deemed a critical deficiency and shall require immediate corrective action to remove the immediate risk. The licensee must submit a preliminary corrective action plan to the Office within 24 hours of notification by the Office of a critical deficiency.

Correction Plan. A plan of correction shall address all deficiencies or areas of noncompliance cited in the statement of findings and shall contain:

- an assessment and analysis of the events and/or circumstances that led to the noncompliance;
- a procedure addressing how the licensee intends to correct each area of noncompliance;
- an explanation of how proposed corrective actions will be implemented and maintained to ensure noncompliance does not recur;
- the proposed date by which each area of noncompliance shall be corrected;

If the Office determines that the corrective action plan needs modification, the licensee shall modify the plan until it is in its final form, as accepted by the Office. Upon written approval of the Office, the licensee shall implement the plan of correction.

30. Refusal of Service. Dispensary workers may refuse to sell cannabis products to a customer if they believe the sale would endanger the health or safety of the customer.

Workers must refuse a sale if, based on the information available to them at the time, that the sale:

- Would result in the customer exceeding the legal possession limit;
- Would create a risk of diversion; or
- Would be to an individual who is under twenty-one years of age.

31. Prohibited Health Claims. The licensee, its workers, and all individuals or entities which hold a direct or indirect interest in the license cannot give the impression to customers that the dispensary, or any adult-use cannabis products sold by the dispensary, will cure or prevent specific illnesses or diseases, treat any specific symptoms, or otherwise provide specific medical advice to customers. This does **not** prevent dispensary workers from providing general information to customers about the effects of cannabis consumption on the human body or specific recommendations about safer storage or consumption of cannabis products, but this **does** prevent dispensary workers from providing specific medical advice to customers based on factors unique to that individual's health, including providing recommendations to pregnant or nursing

individuals to consume cannabis. Medical advice should be referred to that individual's health care practitioner.

If a medical cannabis patient presents their patient certification to a worker and the dosing recommendation is "*Per Pharmacist's Consultation*", then the dispensary worker must notify the patient that they are not a pharmacist before they can make any recommendations to the patient. If the worker believes the sale would be a risk to the patient's health or safety, then they can refuse to sell adult-use cannabis products to the individual.

32. Restrictions on Interests and Ownership. Licensees must ensure that all individuals and entities with an interest in their license are in compliance with the restrictions placed on such individuals and entities in the CAURD True Party of Interest guidance¹². Licensees must comply with all requirements in that guidance including, but not limited to, requirements pertaining to ownership and contracting with landlords, financiers, financial institutions, or management services entities. A failure of any individual or entity with an interest in the licensee to comply with this guidance will be considered a failure of the licensee.

33. Undue Influence. To prevent suppliers from exerting inappropriate control over retail dispensaries, the Cannabis Law places restrictions on the ability of an entity in one tier from having an interest in an entity in another tier of the industry.

Retail dispensaries, their true parties of interest, passive investors, and any management service providers cannot have any interest in any business anywhere that cultivates, processes, or distributes cannabis. Applicants with an interest in such a business, no matter how small that interest is, will not be approved. A licensee who, themselves or through their True Parties of Interest, passive investors, or any management service providers, holds a prohibited interest risks their license being cancelled, suspended, or revoked or other enforcement actions being taken.

The Cannabis Law also prohibits licensees authorized to cultivate, process, or distribute cannabis from giving something of value to retail dispensaries to induce the retail dispensary to buy something from the licensee authorized to cultivate, process, or distribute cannabis. Generally speaking, the Office presumes that anything such licensee gives to a retail dispensary is meant to induce the retail dispensary to buy product including, but not limited to: (1) gifts; (2) discounts, except not in excess of one per centum for payment on or before ten days from date of shipment of such cannabis; (3) customer loyalty programs; (4) loans of money; (5) premiums; (6) rebates; (7) free

¹² This guidance is located on the Office's website at: <https://cannabis.ny.gov/caurd-toi>



product of any kind, except as permitted in regulations or guidance; (8) treats or services; or (9) property.

34. Availing. Availing is when a person who was not disclosed to the Office has an ownership or controlling interest in a licensed entity. A licensee is responsible for violations committed by third parties who are availing the license.

Availing occurs when the licensee turns control of the business over to an undisclosed party without any direction, supervision or oversight by the licensee, even if the undisclosed party does not profit from the use of the license. Availing may involve a failure to disclose an individual's interest in the business at the time the application is submitted to the Office or failure to disclose the transfer of an interest after licensure.

Evidence of availing includes:

- an agreement giving a financial or controlling interest to an undisclosed party;
- an undisclosed party receiving a percentage of the profits; and
- bank accounts, records and other licenses/permits in the undisclosed party's name.

Managers who oversee the business for the licensee *are not* availing the license.

An unauthorized ownership change is a version of availing in which the licensed entity stays the same, but the principals of the licensed entity change without such change being approved by the Office. If a new entity is operating the business without Office approval, then that is availing. If the licensed entity is still in control but with different (unapproved) principal(s), that is an unauthorized ownership change.

To avoid an availing charge due to an unauthorized ownership change, be sure to obtain approval, pursuant to this guidance before making any ownership changes to your license.

35. Changes to Guidance. The Office reserves the authority to issue changes, corrections, and amendments to this guidance. Revised editions of guidance will be posted on the Office's website and notice will be sent to licensees. The Office may provide licensees a period of time to come into compliance with such changes and, if such time is provided, the Office will communicate that period to licensees.



Conditional Adult-Use Retail Dispensary Guidance Signature Page

The guidance of the adult-use retail dispensary license is binding on an Applicant for an adult-use retail dispensary license and a person, partnership, or entity that receives an adult-use retail dispensary license (Applicant).

In addition, all Applicants are bound by current and future state laws, rules, regulations, terms and conditions, and guidance, and an Applicant is subject to the same authorizations and restrictions applied to any adult-use retail dispensary pursuant to section seventy-two of the Cannabis Law.

By signing below, the Applicant understands and agrees to the following:

"I understand that the statements made in this application will be accepted for all purposes as the equivalent of an Affidavit and that any false statements, including omissions, made herein, in addition to being the possible basis for a revocation of any approval given as a result of this application, may be punishable as a misdemeanor under the provisions of Section 210.45 of the Penal Law of the State of New York."

Print: _____

Signed: _____

Date: _____



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

July 19, 2024

Application Notice

Karen Pepe
6125 Emerson Drive
Orchard Park, NY 14127

Re: 1385 Abbott Rd

The above item has been placed on the agenda for the next scheduled meeting of the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna.

Planning and Development Board

Zoning Board of Appeals

Date:

Date: July 30, 2024

Time:

Time: 5:00pm

City Council Chambers Room 241
Lackawanna City Hall

If you have any questions please feel free to call 827-6474

Boarding Neighbors
Community Service- 1377 Abbott
John Gilliland-1389 Abbott
Laura Ieradi-1393 Abbott
Elizabeth Pukalo-110 Palm

Olivia Harrington-106 Palm
Ronald Toomey-101 Magnolia



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

Application Notice

July 19, 2024

Kevin Kania
4944 Armor Drive
Hamburg, NY 14075

Re: 1385 Abbott Rd

The above item has been placed on the agenda for the next scheduled meeting of the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna.

Planning and Development Board

Zoning Board of Appeals

Date:

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Ronald Toomey-101 Magnolia



CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT

Bordering Property Notice

Dear Sir or Madam:

As an adjoining property owner in the City of Lackawanna, you are hereby notified that a neighbor has made application to the Planning and Development Board and/or Zoning Board of Appeals of the City of Lackawanna as follow;

- | | |
|----------------------------------|-----------------------------|
| 1. _____ Site Plan Review | 2. _____ Special Use Permit |
| 3. _____ Development Plan Review | 4. <u> X </u> Variance |
| 5. _____ Zoning Law Appeals | |

Property owner: Karen Pepe

Address: 1385 Abbott Rd

In reference to: Requesting tenant use side driveway for parking and not be required to have 2.5 parking

You are entitled to appear at the public hearing scheduled for 7/30/24@ 5:00pm in Council Chambers at Lackawanna City Hall to express your support or opposition to the granting of said application.

Communications, relating to the application, may be filed with the appropriate Board before the meeting by writing to:

Planning & Development Board/Zoning Board
Department of Development
714 Ridge Road, Room 309
Lackawanna, NY 14218

If you have any questions regarding the meeting, please call 716-827-6474

PLANNING AND DEVELOPMENT BOARD, CITY OF LACKAWANNA
ZONING BOARD OF APPEALS, CITY OF LACKAWANNA

Zoning Area	Allowed	Not Allowed	Cannabis Uses Allowed	Zoning Board Approval Required	Zoning Code
Single Family Residential (SFR)		X	NONE	N/A	
Mixed Residential (MR)		X	NONE	N/A	
Central Business District (CBD)	X		Consumption, retail dispensary	YES	Spec
Neighborhood Commercial (NC)	X		Consumption, retail dispensary	YES	Spec
Regional Commercial (RC)	X		Consumption, retail dispensary	YES	Spec
Mixed Commercial & Industrial (MCI)	X		Cooperative, delivery, distribution, microbusiness, nursery, retail dispensary, warehouse	YES	Spec
Industrial (I)	X		Cultivator, nursery, warehouse	YES	Spec
Bethlehem Redevelopment Area (BRA)	X		Cultivator, nursery, warehouse	YES	Spe

Chapter 230. Zoning

Article V. Regulations Applicable to All Districts

§ 230-36. Parking, loading and stacking.

A. General provisions.

- (1) Existing parking, loading or stacking facilities shall be continued and maintained, and shall not be reduced below the requirements of this chapter, for the duration that the principal use is maintained.
- (2) Permanent off-street automobile storage, parking or standing space shall be provided as set forth below at the time of the construction, enlargement or conversion of any use, building or structure.
- (3) If the requirements of this section cannot be reasonably provided on the same lot as the principal use, the Planning and Development Board may permit such space be provided on another off-street property, provided such facility is located within 400 feet of the main entrance of the principal use.
- (4) All parking facilities shall be used for passenger automobile or commercial vehicles only.
- (5) Parking facilities shall not be used for automobile storage, commercial repairs, sales or service.
- (6) Parking facilities shall be unobstructed and free of other uses.
- (7) All parking facilities required for uses subject to site plan review shall be landscaped and screened from public view in accordance with this chapter.

B. Off-street parking requirements. In all districts, the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations that increase the number of required parking units, and changes in use:

Use/Facility	Requirement (spaces)
Amusement centers	1 per 5 customers based upon the maximum service capacity at any one time, plus 1 per 2 employees
Automotive sales facilities	2 per employee
Automotive service stations	1 per service bay plus 1 per employee; no more than 4 vehicles shall be stored at one time and shall not remain for more than 72 hours.
Bank	1 per 250 square feet of net floor area
Bar/tavern	1 per 50 square feet
Barber shops/beauty parlors	2 per barber/beauty chair

Use/Facility	Requirement (spaces)
Residential (group home for elderly, disabled)	more bedroom units 1/2 per dwelling unit or if public transportation is available within 500 feet, 1/4 per dwelling unit
Restaurant and banquet hall	1 per 3 seats plus 2 for every 3 employees on the maximum shift
Restaurant - take out only	1 per 10 square feet of net floor area
Retail stores (detached)	1 per 250 square feet of sales floor area
Schools (nursery and primary)	1 per employee
Schools (secondary)	1 per 10 student instruction seats or if no fixed seats, 1 per 100 square feet of instructional space
Schools (trade)	1 space per 4 students
Shelters	1 per 2 employees
Commercial centers	5 per 1,000 net square feet
Sports complex/athletic field	10 per field

C. Exceptions. The requirements of this article may be reduced to the extent that the applicant can demonstrate that less parking is required for one of the following reasons:

- (1) Adjacent uses operate at different times and thus, arrangements with surrounding land owners to utilize their parking facilities through a formal agreement are feasible.
- (2) The new development is in close proximity to a public parking facility.

D. Location.

- (1) Required off-street parking shall be located on the same lot as the building to which it is an accessory use, except as herein provided.
- (2) All off-street parking facilities shall be located to the side or rear of the principal use building except in the Central Business District, where off-street parking shall be restricted to the rear yard.
- (3) Off-street parking facilities shall not be located within the required setback areas.
- (4) Permanent front and rear yard parking areas in residential zones, other than driveways accessing a garage or designated parking area, are prohibited.
- (5) No vehicles shall be parked on any lawn area.
- (6) Vehicles bearing signs more than two square feet in area shall not be permitted to park as a customary operation in a residential area so as to be visible from the street.
- (7) At least one of the required spaces for attached single-family residential units shall be provided on the same lot as the primary unit.
- (8) No parking lots shall be located closer than 15 feet to any adjacent residential property.
- (9) Nonresidential parking spaces shall be provided access to a nonresidential public street through a drive or aisle at least 10 feet wide.

E. Parking space dimension requirements.

Angle of stall	90°	60°	45°
Stall length	19' 00"	21' 00"	19' 10"

City of Lackawanna, NY Parking, loading and stacking.

Use	Square Feet	Number of Bays
Wholesale and industrial operations	5,001 - 40,000	2
	40,001 - 50,000	3
	50,000+	4
	Under 40,000	1
	40,001 - 100,000	2
Office buildings	100,000+	3
	100,000+	1
Health-care facilities with ambulatory service	50,000+	2 bays, 1 of which is for emergency vehicles

H. Stacking.

- (1) In addition to minimum parking and loading requirements, drive-in facilities shall provide five spaces per lane, booth, customer facility or service window.
- (2) Drive-in facilities shall be sited so as to facilitate principal on-site vehicular circulation and discourage vehicle stacking on the adjacent street.
- (3) The size of each stacking space shall be 20 feet in length by nine feet in width.

Chapter 230. Zoning

Article V. Regulations Applicable to All Districts

§ 230-36. Parking, loading and stacking.

A. General provisions.

- (1) Existing parking, loading or stacking facilities shall be continued and maintained, and shall not be reduced below the requirements of this chapter, for the duration that the principal use is maintained.
- (2) Permanent off-street automobile storage, parking or standing space shall be provided as set forth below at the time of the construction, enlargement or conversion of any use, building or structure.
- (3) If the requirements of this section cannot be reasonably provided on the same lot as the principal use, the Planning and Development Board may permit such space be provided on another off-street property, provided such facility is located within 400 feet of the main entrance of the principal use.
- (4) All parking facilities shall be used for passenger automobile or commercial vehicles only.
- (5) Parking facilities shall not be used for automobile storage, commercial repairs, sales or service.
- (6) Parking facilities shall be unobstructed and free of other uses.
- (7) All parking facilities required for uses subject to site plan review shall be landscaped and screened from public view in accordance with this chapter.

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	50,000+	4
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	100,000+	3
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