



## VILLAGE OF NYACK

Building Department  
9 N Broadway, Nyack NY 10960  
Phone: (845) 358-4249 | Fax (845) 358-0672  
Email: [buildingdepartment@nyack-ny.gov](mailto:buildingdepartment@nyack-ny.gov)

**Chief Building Inspector**  
Donald Yacopino

**Fire Inspector**  
Vincent Fiorentino

**Asst. Building Inspector**  
Paul Rozsypal

**Code Enforcement Officer**  
Fred Viohl

### FOR OFFICE USE ONLY

File No. \_\_\_\_\_ Date of Application \_\_\_\_\_  
Planning Board Agenda Date \_\_\_\_\_ Appeal No. \_\_\_\_\_ Fee Paid \$ \_\_\_\_\_ Receipt \_\_\_\_\_  
Date Approved \_\_\_\_\_ Date Disapproved \_\_\_\_\_ Date Approved with Conditions \_\_\_\_\_  
Zoning Board Agenda Date \_\_\_\_\_ Appeal No. \_\_\_\_\_ Fee Paid \$ \_\_\_\_\_ Receipt \_\_\_\_\_  
Date Approved \_\_\_\_\_ Date Disapproved \_\_\_\_\_ Date Approved with Conditions \_\_\_\_\_  
If the granting of this permit is subject to conditions established by any board, please attach minutes or a copy of the decision to this application as a part of the final permanent record.

### APPLICATION TO THE ZONING BOARD OF APPEALS APPEAL FOR A USE VARIANCE FROM THE ZONING ORDINANCE

ADDRESS OF SUBJECT PROPERTY				13 Waldron Ave Nyack NY 10960			
ZONING DISTRICT		CC		SECTION		65.35	
BLOCK		1		LOT		5	
EXISTING USE/OCCUPANCY							
Residential Home - vacant							
OWNER'S NAME							
Daniel Barahona							
ADDRESS				25 Orchard St Spring Valley NY 10917			
TELEPHONE				(845) 659-3850			
EMAIL							
SORAMERICA0121@gmail							
(IF OWNER IS A CORPORATION): NAME OF CORPORATION							
Sor America							
OFFICER				Daniel Barahona			
TITLE				PRESIDENT			
<b>PREVIOUS APPEAL:</b>							
HAD A PREVIOUS APPEAL FOR AN INTERPRETATION OF THE ZONING ORDINANCE, OR A DETERMINATION OF THE ZONING MAP BEEN MADE WITH REGARD TO ANY ORDER, REQUIREMENT, DECISION, INTERPRETATION OR DETERMINATION OF THE BUILDING, AND ZONING INSPECTOR WITH RESPECT TO THIS PROPERTY?							
<input type="checkbox"/> YES							
<input checked="" type="checkbox"/> NO							

### DECLARATION OF APPEAL

Whereas, the Board of Appeals, on appeal from decision, or determination made by an administrative official charged with the enforcement of local law, shall have the power to grant use variances authorizing a use of the land which otherwise would not be allowed, or which would be prohibited by the terms of the local law; provided that the applicant can show that the zoning regulations and restrictions cited in such appeal have caused unnecessary hardship.

Therefore, I (We), Daniel Barahona, do hereby appeal the decision, or determination of the Building and Zoning Inspector in regard to an application for a Building/Zoning Permit dated \_\_\_\_\_ for the premises known as 13 Waldron Ave, Nyack, NY 10960 and; I (We) do hereby request that the Zoning Board of Appeals grant a Variance from the following provision (s) of the Zoning Ordinance of the Village of Nyack:

Article	Section	Subsection	Paragraph	Subparagraph
Article	Section	Subsection	Paragraph	Subparagraph

for the following reason(s): Not feasible to use the property for the intended use due to the Covid-19 pandemic effect on Retail use

(DECLARATION CONTINUES ON THE REVERSE SIDE)

PERMIT EXPIRES TWO (2) YEARS FROM DATE OF ISSUANCE  
ONE SIX (6) MONTH EXTENSION MAY BE GRANTED PRIOR TO EXPIRATION DATE

APPLICATION FOR BUILDING / DEMOLITION PERMIT

VILLAGE OF NYACK  
9 North Broadway · Nyack, NY 10960  
Tel 845-358-4249 · Fax 845-358-0672 · Email: [buildingdepartment@nyack-ny.gov](mailto:buildingdepartment@nyack-ny.gov)

OFFICIAL USE ONLY

Land Use Board Review:

☐ ARB

☒ Planning

☒ ZBA

Permit No

Application Date:

Fee Paid

Receipt #:

Inspector:

File #

Permit Granted For:

Permit Denied For:

\*Village Board, Planning Board, Zoning Board, Architectural Review Board decision date:

Property Location:

Tax Map Designation:

Section

65.35

Block

1

Lot

5

Property Owner:

Address:

Email:

Owner/Tenant:

Address:

Email:

Contact Person:

Cell Phone:

Home Phone:

Work Phone:

Cell Phone:

Work Phone:

Cell Phone:

Phone:

Existing and / or proposed use of structure or land:

Project Description

Estimated Construction Value: \$

80,000.00

**Architect / Engineer:** Cristiana Scortea NYS Lic # 021595  
 Address: 51 Ridge Ave, Spring Valley, NY 10977  
 Email: cristiana.scortea@verizon.net Phone: 845 536-0625  
**Builder / General Contractor:** Sur America Construction RC Lic #   
 Address: 125 Orchard St, Spring Valley, NY 10977  
 Email: Suramerica0127@gmail.com Phone: 845 659-3850  
**Plumber:** All Existing RC Lic # 1A-10530A6  
 Address:   
 Email:  Phone:   
**Heat / Cooling:** All Existing RC Lic #   
 Address:   
 Email:  Phone:   
**Electrician:** Electrical Contractor RC Lic # 165  
 Address:   
 Email:  Phone: 845 659-5533

ZONING DISTRICT	BULK		
	Required	Existing	Proposed
Coverage <u>N.A./TBD</u>			
Floor Area Ratio	<u>@0.5-5,040sf</u>	<u>@0.15-1,515sf</u>	<u>@0.15-1,515sf</u>
Lot Area	<u>7,500sf</u>	<u>10,080sf</u>	<u>10,080sf</u>
Lot Width	<u>60'</u>	<u>100' / 89.67'</u>	<u>100' / 89.67'</u>
Street Frontage	<u>60'</u>	<u>100'</u>	<u>100'</u>
Front Yard Setback	<u>15' / 25'</u>	<u>37.7'</u>	<u>37.7'</u>
Side Yard Setback	<u>0' / 5'</u>	<u>12.8' / 33.7'</u>	<u>12.8' / 33.7'</u>
Total Side Yard Setback	<u>0' / 5'</u>	<u>46.5'</u>	<u>46.5'</u>
Rear Yard Setback	<u>25'</u>	<u>24.3'</u>	<u>24.3'</u>
Building Height - Feet	<u>35'</u>	<u>23' to 30'</u>	<u>23' to 30'</u>
Building Height - Number of Stories	<u>2 sty</u>	<u>2 sty</u>	<u>2 sty</u>
Residential Density <u>N.A./TBD</u>			

Site Plan Application is also being made to the ☒ Planning ☐ Architectural Review Board



**AFFIDAVIT**

State of New York)

County of Rockland) SS:

Village of Nyack

I, Daniel Barahona, being duly sworn, depose and say that I am the owner (lessee, engineer, surveyor, architect, builder, or agent of the owner) in fee of the premises to which this application applies; that I (the applicant) is duly authorized to make this application and that the statements contained in the papers submitted herein are true to the best of his knowledge and belief, and that the work will be performed in the manner of set forth in the application and in the plans and specification filed therewith, and in accordance with State Uniform Building Code and all other applicable laws, ordinances and regulations of the municipality. I also declare that the structure or area described in this application will not be occupied or used until I have obtained a Certificate of Occupancy.

Signature and Mailing Address

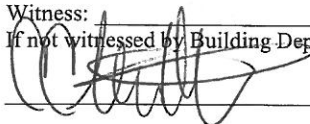
Daniel Barahona  
25 Drehaurel St.  
Spring Valley, NY 10977.

SWORN to before me this

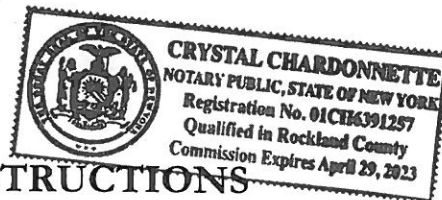
27<sup>th</sup>day of August, 20 20.

Witness:

If not witnessed by Building Department personnel, Notary signature is required.



Notary Public

**APPLICATION INSTRUCTIONS**

(See additional requirements when applying to land use Board)

1. In making this application, submit the following:
  - a. One (1) copy of this form.
  - b. Two (2) set of building plans for an internal building permit (only needing for building inspectors approval only or Ten (10) for Planning or Nine (9) for ARB or Nine (9) for ZBA
  - c. Two (2) copies of the plot plans.
  - d. Copy of Rockland County licenses. (For each trade)
  - e. Certificate of Liability, Certificate of Workman's Compensation, and Disability Benefits Insurance or Owner's affidavit. (For each trade)
2. Plot plans drawn to scale, shall show area, dimension, and location of lot; size and exact location of proposed structures, additions or alterations; all existing structures, all existing structures on lot; streets, curbs, sidewalks, parking spaces driveway; yards and setback; and such other information as may be necessary.
3. Building Plans drawn to scale shall show structural details, floor plans, elevation, plumbing, electrical, heating and ventilation details.
4. The NY.S. Department of Education Law states that a building permit may not be issued for any commercial structure or for a residence containing more than 1500 square feet of habitable space unless the building plans are prepared and signed by a New York State licensed engineer or registered architect.
5. No building permit of Certificate of Occupancy shall be issued by the Building Inspector unless all provisions of the Village of Nyack Zoning Code and the New York State Uniform Fire Prevention and Building Code are in compliance
6. Fees are based on cost of construction. (This office reserves the right to adjust any fee prior to issuing the Certificate of Occupancy if it is shown that the original fee was not sufficient to cover the actual cost.) Bills, invoices and other documentation must be submitted to substantiate both the Estimated Cost of Construction, as well as the Actual Cost of Construction.
7. Mandatory inspections are required for issuance of Certificate of Occupancy.
8. Underground utilities are required by the Zoning Code.
9. It shall be unlawful to use or permit the use of any building or premises or part thereof, hereafter created, erected, changed, converted or enlarged wholly or partly, in its use or structure, until a Certificate of Occupancy shall have been issued
10. This office reserves the right to require that the affidavit of compliance on the application for a Certificate of Occupancy be submitted and signed by the architect or engineer of record.
11. The building permit expires two years from the date of issuance. One six (6) month extension may be granted prior to be expiration date of the building permit (Renewal of all expired building permits requires a new application and fee.)

Date: 09-02-2020

To: Nyack Zoning Board, Attn.: Board Chair Steven Knowlton  
Nyack Planning Board, Attn.: Board Chair Peter Close  
9 North Broadway, Nyack, NY 10960

Re: Property of Daniel Barahona at  
3 Waldron Ave., Nyack, NY 10960

Dear Board Members,

On behalf of the property owner, Daniel Barahona, and at his request, I, Cristiana Scorteia, am asking you to approve a change of use for the above property.

At the time of purchase, early 2019, the property was a non-conforming residential use in a CC zone and has been subject to a massive destructive fire, where unfortunately, someone lost their life. The property was unoccupied for over one year, and was reverted back to a commercial use.

Daniel purchased it, hoping to renovate it and establish it as a Deli business. Just about when all variances and permits were ready for him to start work, the Covid-19 pandemic hit and every activity was shut down, leaving him in a development limbo.

As he is personally facing great financial hardship and in view of current retail business prospects, with closures, empty stores with boarded storefronts and great limitations in usage, it has become obvious he will not be able to open and run a successful, competitive small business, at this time or in the near future.

However, he can alleviate the loss he encountered with this property, by renovating it and using it as his residence, if you will approve it's reversal to a non-conforming residential use.

We are thanking you in advance for your attention and consideration of this request.



Cristiana Scorteia, RA



Daniel Barahona, Owner

**BOARD** -- Klose made a motion to accept and designate this as a Type II action based on: 617.5 (c)(10) and consistent with the LWRP policies and to approve Tree Removal and Replacement Application dated September 10, 2020. Seconded by Voletsky. Vote 5-0- application approved.

**2. 16 Fourth Avenue. Holbrook. Application to remove 9 trees. Property is in TFR zoning district. Arborists letter included.**

**Building Department-arborist letter included**

**Building Inspector -SEQRA** – *The proposed action is a Type II action. LWRP – based on the Village Code, as a Type II action, this is consistent with LWRP policies.*

**Applicant**— Jeffrey Lambert- from Ira Wickes- I have been contracted by the Holbrooks' to remove 9 trees in their landscape. Below is my reason for removal for each tree in the landscape. These trees are being removed because of the intolerable risk they present to the client's liability, life, and property. 1. Hackberry-12" DBH-Limited root space between house and driveway, high risk to house and cars. 2. Hackberry-18" DBH-Trunk defects, history of failure, high risk to house and cars. 3. (5) Norway Maples-12" DBH-NYSDEC invasive species, limited root space, most in poor condition, high risk to structures on property. 4. Ailanthus-40" DBH-NYSDEC invasive species, limited root space, high risk to Ackerman properties and utilities. My proposal to remove these trees will not adversely affect other plants in the landscape nor create drainage/flooding issues. We are planting trees in their place. planting non-invasive-- plan to plant oriental plants.

**PUBLIC**-- none.

**BOARD**-- Motion by Klose - to close the public meeting with respect to removal of the 9 trees, Motion made to close the public hearing application to remove the tree. Seconded by Wilen - Motion to close the public hearing passed. Vote 5-0 to close.

**BOARD** -- Klose made a motion to accept and designate this as a Type II action based on: 617.5 (c)(10) and consistent with the LWRP policies and to approve Tree Removal and Replacement Application dated September 15, 2020, subject to applicant planting and replacing foliage solely at discretion but including Japanese maples and dogwoods. Seconded by Englander. Vote 5-0- application approved.

**3. 3 Waldron Avenue. Daniel Barahona. Application for a recommendation to ZBA for requested area variance. Property is in the CC zoning district.**

**Building Inspector** -*This was a pre-existing, nonconforming single-family residence in the CC zoning district, which lost its nonconforming status for discontinuance of use following a fire in the home.*

**SEQRA** - *This is a recommendation to the ZBA for an area variance. The ZBA would be the lead agency on this proposed action. The proposed action is a Type II action under 617.5(c)(17) "granting of an area variance for a single-family, two-family or three-family residence;"*

*Applicants received approval for the change of occupancy to a convenience store. Due to the onset of the*

*pandemic, which prevented the owner from moving forward with the conversion and recognizing the less than positive business outlook, the applicant is requesting a recommendation from the Planning Board to the Zoning Board of Appeals for an area variance from Article I, VON§360-1.9D(3) to re-establish the nonconforming single family use.*

Klose accepted the re-institution of a single-family residence at the location, based upon the difficulty of establishing a deli at the location and the benefit to the neighborhood to have an attractive single-family residence. Seconded by Voletsky. Vote 5-0- application approved.

**Village Planner comments** - *The reasons for including these actions in the Type II list are essentially the same as those for construction of single-, two-, or three- family residences. That is, long-term experience has shown that this kind of action rarely results in adverse environmental impacts. This was a former use on the property which underwent an extensive review by the Village Planning Board and Rockland County Department of Planning. Its conversion back to a single-family residence will not have any adverse impacts to the surrounding neighborhood. It is recommended that the Planning Board provide a positive recommendation to the ZBA.*

*Chairman Klose was concerned that the Site Plan submitted with the Deli Application would not be the same for a residential use. In particular, Chair wants the application submitted to the ZBA with the actual configuration showing landscaping in the front yard, (not parking). Applicant agreed to revise and deliver it that way to the ZBA.*

**PUBLIC**-- none.

**BOARD**-- Motion by Klose - to close the public meeting with respect to the recommendation ZBA for the return to a single-family residence. Seconded by Kestenbaum - Motion to close the public hearing passed. Vote 5-0 to close.

**BOARD** -- Klose made a motion to make positive recommendation to the ZBA for the re-institution of a single family residence at the location, based upon the difficulty of establishing a deli at the location and the benefit to the neighborhood to have an attractive single family residence, *subject to the application submitted to the ZBA with the actual configuration showing landscaping in the front yard (not parking)* and subject to reasonable conditions imposed by the ZBA. Seconded by Voletsky. Vote 5-0- application approved.

- 4. 160 North Midland Avenue. Nyack Hospital. Continuation of Site Plan application for the construction of a parking garage. Property is in the Hospital (H) zoning district. Proposal is to construct a parking garage, connected by elevated walkway to the main building, in the south east corner of the property, now being used as a surface parking lot.**

A SIGNIFICANT AMOUNT OF INFORMATION HAS BEEN PROVIDED BY THE APPLICANT FOR SEPTEMBER 14, 2020 MEETING, AS OUTLINED IN VILLAGE PLANNER'S COMMENTS BELOW

**Building Inspector Review**-- *At a permitted height of 40 feet and 3&1/2 stories, buildings facing residential streets in the H zoning district must be set back at least 25 feet from the property line pursuant to footnote (n) of Dimensional Standards Table. Footnote (o) of the same Table permits an increase in height of 2 feet for each additional 1 foot of setback from property line. Plans indicate the building is to be 5 stories at 55.97 feet high Calculating permitted building height using information contained in footnotes (n) & (o) the*