



# TOWN OF CORTLANDT

## ZONING BOARD OF APPEALS

Michael Fleming  
Chairman

Town Hall, 1 Heady Street  
Cortlandt Manor, NY 10567  
914-734-1080

**Town Supervisor**  
Richard H. Becker, MD

Wai Man Chin  
Vice-Chairman

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James F. Creighton  
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Robert Mayes  
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Frank Franco  
Michelle Piccolo Hill  
Benito Martinez  
Thomas Walsh

**TO JOIN THE MEETING REMOTELY USE THE ZOOM LINK BELOW:**

<https://us02web.zoom.us/j/87502548613?pwd=x6MD6Nhunj6y8hlrbmO8oRTHzlHxU5.1>

AGENDA.....ZONING BOARD OF APPEALS  
Town Hall – 1 Heady Street  
Cortlandt Manor, NY 10567

### Work Session – Thursday, January 15, 2026 at 6:30 PM

1. Discuss Agenda for the Regular Meeting

### Regular Meeting – Thursday, January 15, 2026 at 7:00 PM \*

1. Pledge to the Flag and Roll Call
2. Adoption of the Meeting Minutes for December 18, 2025

### 3. NEW PUBLIC HEARINGS

- A. Case No. 2025-15 – Application of Stuart Markowitz, AIA, AICP, LEED AP for the property of Buena Vista Builders, LLC for an area variance, side yard setback, for an existing chimney for property located at 65 Dutch Street.
- B. Case No. 2025-16 – Application of Robert Keeler, RA for the property of Percy & Barbara Montes for an area variance for accessory building coverage exceeding 50% of the floor area of the principal dwelling for property located at 18 Radio Terrace.

### 4. OLD BUSINESS

- A. Case No. 2025-6 Application of Paola Patino and Miguel Rodas for an area variance for an additional curb cut (driveway) for property located at 60 Carolyn Drive.

**NEXT REGULAR MEETING THURSDAY, FEBRUARY 19, 2026**

*\*Regular meeting to begin at conclusion of the work session*

## **ZONING BOARD OF APPEALS FACT SHEET**

**ZBA Member Assigned: Piccolo-Hill**

**CASE NO.: 2025-15**

**Name of Applicant:** **Stuart Markowitz, RA**  
**Owner:** **Buena Vista Builders, LLC**  
**Address of property:** 65 Dutch St.  
**Section, Block, Lot:** 54.12-4-26.2  
**Prior ZBA Case No.:**  
**Zone:** R-15  
**Lot Size:** 17,273 sq. ft.

**Request:** Area variance under Section 307-18 Supplemental Dimensional Regulations Subsection B. (4), for an existing chimney extending into the side yard.

**Drawings:** *Drawing entitled “Site Plan prepared for Buena Vista Builders, LLC” prepared by Ralph Mastromonaco, P.E. latest revision dated December 20, 2024.*

*20-page set of drawings entitled “New Residence, 65 Dutch St.” prepared by SMA Architecture latest revision dated December 30, 2024.*

*Property Survey prepared by Ramzan Ali, LS dated November 14, 2025*

**Staff Comments:** During a site inspection it was determined that the current single-family residence under construction at 65 Dutch St. is not in conformance with the Town Zoning code. The existing chimney is 7' 6" from the side yard. The code requires the chimney to 8' 6". The minimum side yard setback is 10' but the code allows chimneys to extend into any yard for a distance not to exceed 18 inches. A denial letter was issued on December 15, 2025.

**Variance(s) Requested:** An area variance for an existing chimney in the side yard.

| <b>REQUIRED</b>                 | <b>PROPOSED</b> | <b>REQUEST</b> | <b>PERCENT</b> |
|---------------------------------|-----------------|----------------|----------------|
| 10' (chimney can encroach 1'6') |                 |                |                |
| 8' 6"                           | 7', 6"          | 1'             | 12%            |

**SEQR: TYPE II – No further compliance required**



69 Dutch St  
54.124-27

65 Dutch St  
54.124-26.2

77 Dutch St  
54.124-26.1

DUTCH ST

# SMA

ARCHITECTURE PLANNING INTERIORS PC

STUART MARKOWITZ AIA AICP LEED AP, PRINCIPAL  
KENNETH W. BINCHAM AIA LEED AP, ASSOCIATE

18 December 2025

Hon. Michael Fleming  
Chair, Zoning Board of Appeals  
Town of Cortlandt  
1 Heady Street  
Cortlandt manor, New York 10567

**Re: 65 Dutch Street  
Block/Lot 54.12-4-26.2  
Buena Vista Builders  
Permit No. A-24-107**

Dear Mr. Fleming:

This letter is written in support of the application for a zoning variance made on behalf of, Buena Vista Builders, LLC, the Owner of 65 Dutch Street, in Montrose. The subject property is a single-family residence lot, located in the R-15 zoning district. The building permit for the house construction was issued on 24 April 2025, and the house is partially constructed.

#### **Nature of the Non-Compliant Condition and Current Status**

The construction is currently suspended, under a Stop Work Order, issued by the Department of Technical Services on 7 November. The Stop Work Order was issued when the foundation survey submitted by the Contractor showed that the chimney of the house extended further into the required side yard than indicated in the approved drawings and permitted by Section 307-18 of the Zoning Ordinance. The minimum side yard dimension required in the R-15 district is 10'-0". Section 307-18 B(4) permits an encroachment of 1'-6" into the side yard for Chimneys, with a resultant minimum side yard setback for chimneys of 8'-6".

We have attached copies of the following:

The foundation survey (dated 14 November 2025)  
The originally approved engineering site plan (included in the approved drawing set)  
The originally approved construction drawings  
The Denial Letter (issued on 15 December 2025)  
The Recorded Property Deed  
A Short Form EAF  
A Proxy Statement from the Owner  
A letter of support from the neighbor nearest the chimney

As can be seen in the Architectural Site Plan, the originally approved design called for the house to be located between 10'-6" and 10'-10" from the property line (the house does not exactly align with the side property line), with the chimney extending 2'-1" from the building, resulting in a clear side yard dimension (from the chimney) of 8'-8 1/2", as permitted by Section 307-18 B(4). (Note the Engineering Site Plan indicated a 10-foot minimum side yard, but the chimney depth is not specifically delineated).

The foundation survey of constructed conditions shows that the building's foundation walls were set between 10.1' and 10.3', a few inches closer than the plan indicated, but still complaint. However, the chimney was inadvertently constructed deeper than shown in the drawings, resulting in a clear side yard at the chimney of 7.5' (7'-6") extending into the side yard, 1'-0" more than permitted.

### **Causative Factors**

The non-compliant condition was apparently the product of two issues. The first related to the preparation of the original construction stake out and the second related to the chimney layout and construction.

The Owner has informed us that the Surveyor reported some minor confusion over some control data, both horizontal and vertical. This has resulted in the delay experienced in the preparation of the foundation survey and caused two amendments of the survey.

The second issue is one of a simple, minor, construction layout error.

While both issues resulted in errors of only a few inches, the cumulative error resulted in a side yard extension, 1'-0" greater than permitted.

### **Mitigating Factors**

While it is agreed that this non-compliance should not have occurred, there are a few points to be made regarding mitigating context.

- That the noncompliance is only 1'-0" for the width of the chimney only.

- That, based on available survey data, the nearest corner of the nearest house, located at 77 Dutch Street, is approximately 34 feet distant from the chimney as constructed.
- That sidewall of the house at 77 Dutch is not directly aligned with the house at 65 Dutch Street and is offset approximately 6 feet from the rear of 77 Dutch to the front of 65 Dutch.
- That this noncompliance was clearly the result of error. There is no material benefit to the property owner of 65 resulting from the non-compliance. Aside from the approximately 5 square feet (1'-0" x the width of the chimney), no footprint floor area is gained and no interior floor area or other benefit is obtained.
- The Owner of 77 Dutch Street has provided a letter in support of this variance request.

### **Requested Variance**

While, as discussed above, the recorded non-compliance is 1'-0", we request a variance for the constructed condition. The reason for this request is solely to provide a margin of error for the chimney as constructed, if, and only if, any further amendments to the survey are forthcoming.

### **'Five Factor' Review**

#### **1 Whether an undesirable change will be produced in the character of the neighborhood, or if a detriment to nearby properties will occur**

No undesirable change will be produced. The 12-inch extension will be all but impossible to perceive from the street or from neighboring properties.

#### **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**

There does not appear to be any readily achievable alternative solution, short of demolition and reconstruction of the chimney.

#### **3 Whether the requested variance is substantial**

We believe that the requested variance is minimal. As discussed above, the Owner has obtained no material benefit from the error that caused the extension requiring the proposed variance.

#### **4 Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**

The proposed variance will have no adverse impact on the neighborhood or district. As noted in the more detailed discussion above, we believe that the additional extension of the now constructed chimney into the side yard will be almost impossible to perceive from the street or from the neighboring properties. The neighbor closest to the chimney has provided a letter of support for the proposed variance.

## 5 Whether the alleged difficulty was self-created

Also as discussed above, the difficulty was caused by some reported confusion on the part of the surveyor and an error by the Contractor, and so was self-created.

We have appended to these notes a few photos of the constructed conditions.

Please let this office know if you or the Board have any questions that we may respond to prior to the Board meeting. We thank the Board in advance for its consideration of this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Stuart Markowitz".

Stuart Markowitz AIA AICP LEED AP

65 DUTCH ZBA LETTER 12-18-25









1. This is to certify that there are no visible streams or natural water courses in this property unless shown on this survey.
2. Encroachments, vaults, and easements, if any below surface are not shown hereon.
3. This survey is NOT a title survey and is not to be used for title purposes. This surveyor will not be responsible for its use as a title survey.
4. Elevations refer to Engineer Design Plan



RECORDS OF FRANK E. TOWLE & SON, INC. TO HARWOOD SURVEYING  
ARISTOTLE BOURNAZOS PC

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Reproduction or copying of this document may be a violation of  
copyright law unless permission of the author and / or copyright  
holder is obtained.

Unauthorized alteration or addition to a survey map bearing  
a licensed land surveyor's seal is a violation of section  
7209, sub-division 2, of the New York State Education Law.

It is a violation of the State Education Law for any person,  
unless acting under the direction of a licensed land surveyor, to  
alter an item in any way." The altering of a boundary or title  
survey should only be prepared for a specific purpose named in  
the alteration. Any re-survey map bearing a new date should  
conform to the requirements of a new survey.

|              |            |
|--------------|------------|
| PROJECT No.: | AS-001720W |
| DRAWN BY:    | HM         |
| CHECKED BY:  | AA         |

PROFESSIONAL SEAL:



RAMZAN ALLI, LS No. 050457  
STATE OF NEW YORK

A copy of this document without a proper  
application of the surveyor's inked or embossed  
seal should be assumed to be an unauthorized  
copy.

|   |  |
|---|--|
| Property Address:   | Tax Designation:                                       |
| 65 Dutch Street<br>Montrose<br>Town of Cortland<br>County of Westchester<br>State of New York | District: -<br>Section: 54.12<br>Block: 4<br>Lot: 26.2 |

|        |                |
|--------|----------------|
| SCALE: | 0' 15' 30' 45' |
|--------|----------------|

Original Scale: 1"=15'

| MARK | DATE              | DESCRIPTION                        |
|------|-------------------|------------------------------------|
|      | November 14, 2025 | Property Line Marked & Map Amended |
|      | October 30, 2025  | Elevation Added                    |
|      | October 24, 2025  | Survey Amended                     |
|      | October 21, 2025  | DATE OF SURVEY                     |

SHEET TITLE:  
**FOUNDATION SURVEY**

**Dutch Street** ASPHALTIC PAVEMENT

Designated as Lot No. 2 On a certain map entitled "Subdivision Map of property  
prepared for Michael Americo" Filed in the Westchester County Clerk's Office on  
March 06, 2007 as Map No. 27907

**LEGEND**

(U) Utility Pole  
(2) File Map Lot Number  
POB POINT OF BEGINNING  
18' TREE & SIZE

EP Edge of Pavement  
CL Centerline  
EL Spot Elevation

TW Top of Wall Elevation  
BW Bottom of Wall Elevation

Wing Set  
X-Cut Set

## **ZONING BOARD OF APPEALS FACT SHEET**

**ZBA Member Assigned: Beloff**

**CASE NO.: 2025-16**

**Name of Applicant:** Robert Keeler, R.A.  
**Owner:** Percy & Barbara Montes  
**Address of property:** 18 Radio Terrace  
**Section, Block, Lot:** 23.5-4-1  
**Prior ZBA Case No.:**  
**Zone:** R-40  
**Lot Size:** 8.4 acres

**Request:** Area variance under Town Code Chapter 307-Zoning, Attachment 3, Table of Dimensional Regulations, Residential Districts and Attachment 4, Table of Dimensional Regulations, Maximum Floor Area in Residential Districts. The current development of the property has led to the total footprint of all accessory buildings exceeding the maximum permitted amount of 50% of the floor area of the principal dwelling. 1,752 sq. ft. permitted, 5,589 sq. ft. proposed.

**Drawings:** *6-page set of drawings entitled "Barn Reconstruction, Montes Residence" prepared by Robert Keeler, R.A. latest revision dated November 21, 2025.*

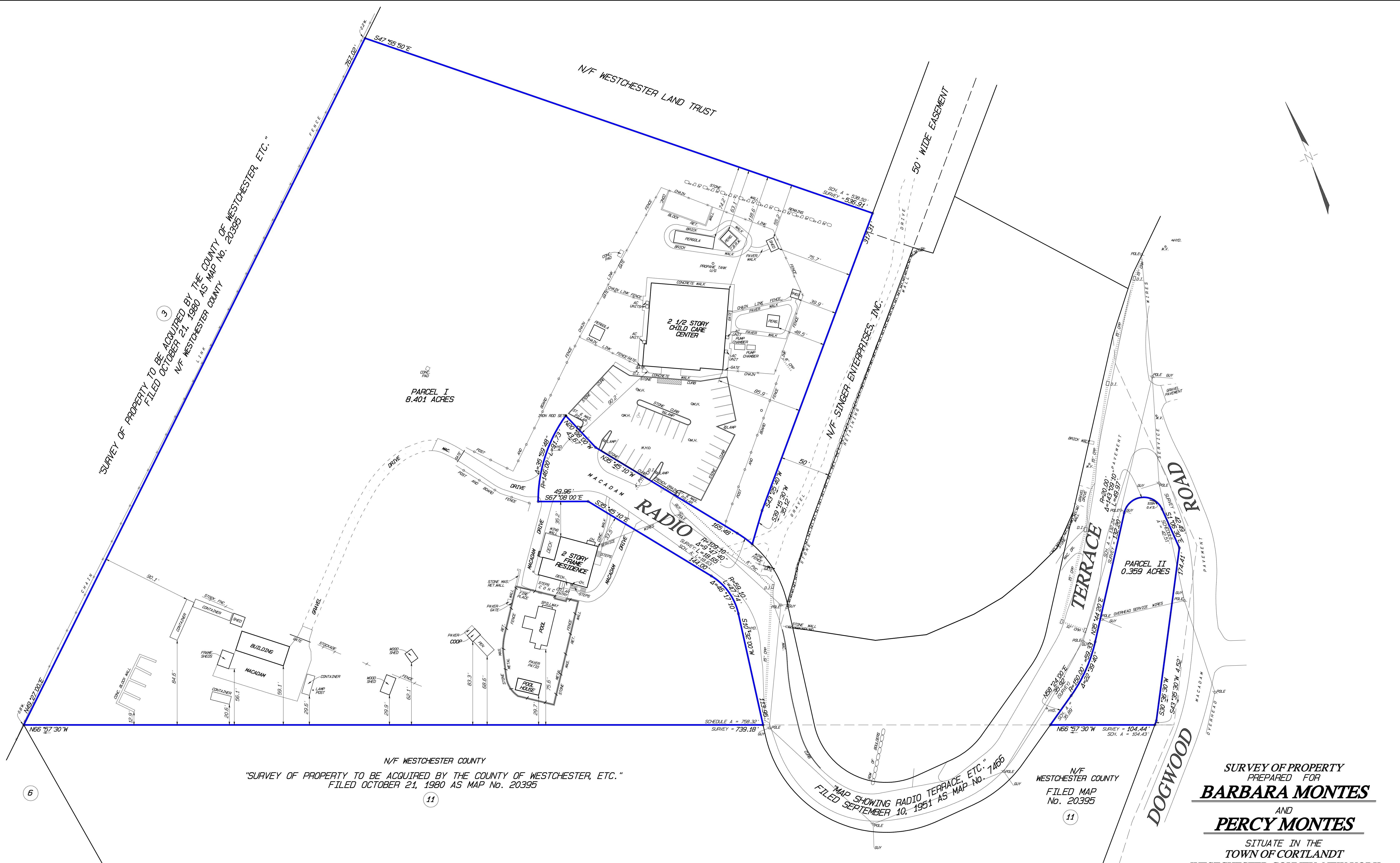
*Property Survey prepared by Robert S. Johnson, PLS dated November 7, 2025*

**Staff Comments:** An application was made to the Department of Technical Services (DOTS) for a new detached garage and to retroactively legalize a pool reconstruction, pool house and miscellaneous sheds. A denial letter was issued on December 12, 2025. DOTS is only evaluating the residential portion of the subject property. The 8.4-acre property also contains a daycare facility in an existing building, approved by Special Permit by the Planning Board. Currently there is 3,769 sq. ft. of accessory buildings on site. A building permit application, A-23-529 was submitted to reconstruct a fire damaged barn. That application has been amended to not only reconstruct but to enlarge the structure by 1,250 sq. ft. Other accessory structures include various sheds, structures, a pool house and a proposed pool pavilion.

**Variance(s) Requested:** Increase the maximum square footage of accessory buildings (existing and proposed) from 1,752 sq., ft. to 5,589 sq. ft.

| <b>REQUIRED</b> | <b>PROPOSED</b> | <b>REQUEST</b> | <b>PERCENT</b> |
|-----------------|-----------------|----------------|----------------|
| 1,752 sq. ft.   | 5,589 sq. ft.   | 3,837 sq. ft.  | 219%           |

**SEQR: TYPE II – No further compliance required**



TC MERRITTS LAND SURVEYORS  
SUCCESSOR TO  
H. STANLEY JOHNSON & CO.  
LAND SURVEYORS PC  
42 SMITH AVENUE  
MT. KISCO, N.Y. 10549  
TEL. 914-241-3872

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TC MERRITTS LAND SURVEYORS

**TC MERRITTS LAND SURVEYORS**



*SURVEYED: OCTOBER 31, 2025  
MAP PREPARED: NOVEMBER 7, 2025*

BY: Robert S. Johnson  
NEW YORK STATE LICENSED LAND SURVEYOR NO. 50037  
ROBERT S. JOHNSON, P.L.S.

Total Area = 8,760 Acres

*Total Area 5.750 Acres.*  
*Tax Identification Section 23.05 Block 4 Lot 1 and Section 23.10*  
*Block 1 Lot 1.*

*In accordance with the existing Code of Practice for Land Surveys as adopted by The New York State Association of Professional Land Surveyors, Inc.*

*Unauthorized alteration or addition to a survey map bearing a Licensed Land Surveyor's seal is a violation of Section 7209, Subdivision 2 of the New York State Education Law.*

*said map or copies bear the impressed seal of the surveyor whose signature appears hereon.*

*The location of underground improvements or encroachments hereon, if*

*any exist, are not certified.*

SCALE: 1" = 40'

|                                   |                              |
|-----------------------------------|------------------------------|
| <i>Project:</i><br># F01-022.09   | <i>Reference:</i>            |
| <i>Field Survey By:</i><br>J.G.   | <i>Drawn By:</i><br>S.M.S.   |
| <i>Project Manager:</i><br>R.S.J. | <i>Checked By:</i><br>R.S.J. |

| SITE PLAN NOTES:  |  |  |  |
|---|--|--|--|
| 1. INFORMATION & NOTES ON THIS SITE PLAN WERE TAKEN FROM THE SURVEY PREPARED BY H. STANLEY JOHNSON AND COMPANY LAND SURVEYORS, PC, DATED 03/10/2007 ADD. INFO LOCATED FROM WESTCHESTER GDS & SITE MEASUREMENTS BY ARCHITECT.  |  |  |  |
| 2. TO VERIFY AND LOCATE EXISTING UTILITY IN FIELD PRIOR TO START OF CONSTRUCTION NOTIFY ARCHITECT OF ANY DISPARANCES.   |  |  |  |
| 3. ALL EXISTING GRAVES TO REMAIN AROUND PROPOSED ALTERATIONS UNLESS OTHERWISE NOTED ON THESE PLANS.   |  |  |  |
| 4. THE APPLICANT IS AWARE THAT THE ENTIRE SITE MUST BE 100% STABILIZED PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY. DISTURBED AREAS SHALL BE RESTORED AND STABILIZED APPROPRIATELY AND IN A TIMELY MANNER.  |  |  |  |
| 5. NO RECYCLED MATERIAL (C&D) IS PERMITTED ON SITE. ANY IMPORTED SOIL SHALL MEET THE NYSDC STANDARDS OF UNRESTRICTED FILL AND BE SUITABLE FOR RESIDENTIAL USE.  |  |  |  |
| 6. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, AN "AS-BUILT" SURVEY PREPARED BY A LICENSED PROFESSIONAL LAND SURVEYOR OF THE PROPERTY SHALL BE SUBMITTED TO THE DEPARTMENT OF TECHNICAL SERVICES.  |  |  |  |
| 7. PRIOR TO THE BACKFILLING OF ANY STORM WATER PEST MANAGEMENT PRACTICE, DOTS-ENGINEERING SHALL BE NOTIFIED TO PERFORM AN INSPECTION. CONTACT ENGINEERING AT 914-341-1042 TO SCHEDULE AN INSPECTION.  |  |  |  |
| 8. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, THE ENGINEER/ARCHITECT SHALL SUBMIT A CERTIFICATION ADDRESSED TO THE TOWN OF ORLAND, DEPARTMENT OF TECHNICAL SERVICES, THAT THE SITE WORK HAS BEEN COMPLETED IN ACCORDANCE WITH THE APPROVED PLANS ON FILE WITH THE TOWN AND THAT THERE IS NO ADVERSE IMPACTS TO ADJACENT AND ADJOINING NEIGHBORS AS IT PERTAINS TO DRAINAGE AND RUNOFF.  |  |  |  |
| 9. NO FILL SHALL BE IMPORTED TO THE SITE. PRIOR TO REVIEW, INDICATE THE SOURCE OF ALL PROPOSED FILL AND PROVIDE DOCUMENTATION. ALL IMPORTED FILL MUST BE TESTED AND CERTIFIED AS UNRESTRICTED AND SUITABLE FOR RESIDENTIAL USE. CERTIFICATIONS MUST BE PROVIDED BY A LICENSED PROFESSIONAL. ALL CERTIFICATIONS SHALL BE ADDRESSED TO WHOM IT MAY CONCERN. FILL SHALL BE REVIEWED BY A 3RD/ PARTY CONSULTANT RETAINED BY THE TOWN AND PAID FOR BY THE APPLICANT. |  |  |  |
| 10. FOOTING DRAINS SHALL BE SEPARATE FROM LEADER DRAINS AND DRAIN TO DAYLIGHT.  |  |  |  |

| EXCAVATED SOIL NOTES:   |  |  |  |
|---|--|--|--|
| 1. NO PROPOSED EXCAVATED SOIL OR FILL PROPOSED.                       |  |  |  |
| SEQUENCE OF OPERATIONS:   |  |  |  |
| 1. ALL CONSTRUCTION ACTIVITY SHALL FOLLOW THE FOLLOWING SEQUENCE.     |  |  |  |
| 1.1. INSTALL ALL EROSION CONTROL MEASURES, SEE EROSION CONTROL NOTES. |  |  |  |
| 1.2. CLEARING AND GRUBBING.   |  |  |  |
| 1.3. INSTALL A STABILIZED CONSTRUCTION ENTRANCE.                      |  |  |  |
| 1.4. EXCAVATION AND GRADING.  |  |  |  |
| 1.5. POOL AND UTILITY INSTALLATION.                                   |  |  |  |
| 1.6. BACK FILL AND FINISH GRADING.                                    |  |  |  |

