



# TOWN OF NEWBURGH

*Crossroads of the Northeast*

ZONING BOARD OF APPEALS  
21 Hudson Valley Professional Plaza  
Newburgh, NY 12550



OFFICE OF ZONING BOARD

TELEPHONE 845-566-4901

FAX LINE 845-564-7802

## APPLICATION

DATED: July 8, 2024

TO: **THE ZONING BOARD OF APPEALS**  
THE TOWN OF NEWBURGH, NEW YORK 12550

I (WE) Spark Car Wash, LLC PRESENTLY  
RESIDING AT NUMBER 30 Maple Street, Suite 2, Summit, NJ 07901  
TELEPHONE NUMBER 201-248-8486

HEREBY MAKE APPLICATION TO THE ZONING BOARD OF APPEALS FOR THE FOLLOWING:

- USE VARIANCE
- AREA VARIANCE (S)
- INTERPRETATION OF THE ORDINANCE
- SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:

Sec 96, Block 1, Lot(s) 4 & 5 (TAX MAP DESIGNATION)

1227-1229 Route 300 (STREET ADDRESS)

(IB) Interchange Business (ZONING DISTRICT)

2. PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUB-SECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

IB District, Schedule 8, Section A.14, Minimum Rear Yard

Section 185-28.B, Driveway Distance From Property Line

3. IF VARIANCE TO THE ZONING LAW IS REQUESTED:

a) APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OR BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED:

N/A

b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED:

Referral from Planning Board- See Attached Letter

4. DESCRIPTION OF VARIANCE SOUGHT: Area Variances for Rear Yard Setback and

Driveway Distance From Property Line

5. IF A USE VARIANCE IS REQUESTED: STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT:

a) UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE:

N/A

**(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)**

b) THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE:

N/A

c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:

N/A

d) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

N/A

6. IF AN AREA VARIANCE IS REQUESTED:

- a) THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE:

See attached statement in support of Area Variance Relief

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- b) THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE:

See attached statement in support of Area Variance Relief

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- c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

See attached statement in support of Area Variance Relief

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- d) THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE:

See attached statement in support of Area Variance Relief

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- e) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

See attached statement in support of Area Variance Relief

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7. ADDITIONAL REASONS (IF PERTINENT):

See attached statement in support of Area Variance Relief

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Spark Car Wash, LLC

Robert Vallario  
PETITIONER (S) SIGNATURE  
Robert Vallario, VP, Store Development

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 3<sup>rd</sup> DAY OF April 20 24

Shannon M Bellof  
NOTARY PUBLIC

SHANNON M BELLOF  
Notary Public, State of New Jersey  
Comm. # 50061271  
My Commission Expires 05/24/2027

NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.

**[ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 13 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE NIGHT OF THE MEETING].**

(NOTE: BOARD MEMBERS MAKE SITE VISITS TO ALL THE PROPERTIES)

**TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS**

PROXY

Pomarico Properties, LLC, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 1229 NY Route 300, Newburgh

IN THE COUNTY OF Orange AND STATE OF NY

AND THAT HE/SHE IS THE OWNER IN FEE OF \_\_\_\_\_

1229 NY Route 300, Newburgh, NY

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED \_\_\_\_\_

TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 5/3/24 \_\_\_\_\_

OWNER'S SIGNATURE

Korlee Dell

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 3<sup>rd</sup> DAY OF May 2024

\_\_\_\_\_  
NOTARY PUBLIC

**GARY J. GOGERTY**  
Notary Public, State of New York  
Qualified in Orange County  
No. 01GO4834057  
Commission Expires June 30, 2027

**TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS**

PROXY

Pomarico Properties, LLC, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 1227 NY Route 300, Newburgh

IN THE COUNTY OF Orange AND STATE OF NY

AND THAT HE/SHE IS THE OWNER IN FEE OF \_\_\_\_\_

1227 NY Route 300, Newburgh, NY

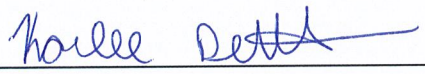
WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED \_\_\_\_\_

TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 5/3/24 

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STATE OF NEW YORK: COUNTY OF ORANGE:

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Notary Public, State of New York  
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No. 01 GO4834057  
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## Short Environmental Assessment Form Part 1 - Project Information

### Instructions for Completing

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: Proposed Spark Car Wash			
Project Location (describe, and attach a location map): The project is located at 1229 NY-300, Newburgh, NY and the frontage borders NY-300. The closest intersection is NY-300 and NY-17K.			
Brief Description of Proposed Action:  The proposed action is demolishing the existing two residential buildings and building a Spark Car Wash with a 3,381 SF building and 19 vacuum stall spaces. The car wash is automatic and would have 3 employees max on site at a time. Development would not extend further north than the existing limit of pavement. The existing full movement and right ingress and right egress driveways would be replaced by one right ingress/egress driveway.			
Name of Applicant or Sponsor:  Spark Car Wash, LLC		Telephone:  E-Mail: pmutch@stonefieldeng.com	
Address:  30 Maple Street, Suite 200			
City/PO: Summit		State: NJ	Zip Code: 07901
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: NYS DOT, Access Permit			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		1.18 acres	
b. Total acreage to be physically disturbed?		.89 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.18 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action,		NO	YES	N/A
a.	A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b.	Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?		NO	YES	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?		NO	YES	
If Yes, identify: _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?		NO	YES	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?		NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?		NO	YES	
If No, describe method for providing potable water: _____		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?		NO	YES	
If No, describe method for providing wastewater treatment: _____		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?		NO	YES	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?		NO	YES	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____				



14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
Indiana Bat, Upland Sandpiper	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES
If Yes,	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, briefly describe: Stormwater will be discharged into the existing stormwater system along NY-300.		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	NO	YES
If Yes, explain the purpose and size of the impoundment:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?	NO	YES
If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b> Applicant/sponsor/name: <u>SPARK car Wash LLC</u> Date: <u>9/20/2023</u> Signature: <u>Robert Vallano</u> Title: <u>U.P. Store Development</u>		

**PRINT FORM**

# EAF Mapper Summary Report

Friday, September 15, 2023 3:26 PM

**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Indiana Bat, Upland Sandpiper
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

James R. Loeb  
Richard J. Drake, *retired*  
Glen L. Heller\*  
Marianna R. Kennedy  
Gary J. Gogerty  
Stephen J. Gaba  
Adam L. Rodd  
Dominic Cordisco  
Ralph L. Puglielle, Jr.  
Alana R. Bartley\*\*  
Aaron C. Fitch

Judith A. Waye  
Sarah N. Wilson  
Michael J. Barfield\*\*  
Meghan R. LoCicero

Jennifer L. Schneider  
Managing Attorney

\*LL.M. in Taxation  
\*\*Member NJ & NY Bar

January 9, 2024

BY EMAIL ONLY

Darrin J. Scalzo, Chairman  
Zoning Board of Appeals  
Town of Newburgh Town Hall  
1496 Route 300  
Newburgh, New York 12550

Re: Spark Car Wash // ZBA referral  
Planning Board Project No. 2023-23

Dear Chairman Scalzo and Zoning Board Members:

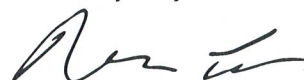
At the Planning Board's December 7, 2023 meeting, the Planning Board resolved to refer this application to the Zoning Board of Appeals for its consideration of the variances required for the proposed project located at 1229 NYS Route 300. The project proposes a 4,294 +/- square foot car wash on a 52,987 square foot parcel. The site is located in the Interchange Business (IB) zoning district.

The applicant recently confirmed the variances required for the project, which are (1) a minimum rear yard setback of 42.4 feet, where 60 feet is required, and (2) a driveway located 5.4 feet from the property line, where 10 feet is required. The project may also require variances for the kiosk and canopy proposed within the front-yard setback.

The Planning Board has not declared its intent to serve as lead agency so that the Zoning Board of Appeals may consider and process this application without the need to wait for the Planning Board to conclude its SEQRA review.

Thank you for your consideration of this matter.

Very Truly Yours,



Dominic Cordisco

Z:\LIC\NYC\2022\NYC-220349 Spark Car Wash - 1229 NY-300, Town of Newburgh, NY\CADD\Exhibit\Photo Exhibit\2024-07-01\_Photo Exhibit.dwg



200' SITE RADIUS

4

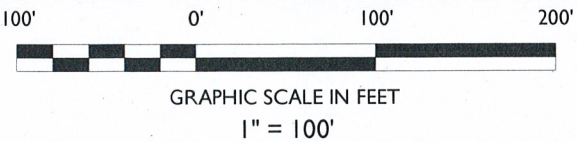
3

2

SITE

1

NY-300



# PHOTOGRAPH LOCATION MAP

SOURCE: NEARMAP DATED MARCH 2024

## SPARK CAR WASH PROPOSED CAR WASH

TAX MAP SECTION 96, BLOCK 96, LOTS 4 & 5  
1229 NY-300  
TOWNSHIP OF NEWBURGH, ORANGE COUNTY, NEW YORK

DRAWN BY:	OK
CHECKED BY:	PM
DATE:	07/01/2024
SCALE:	1"=100'
PROJECT ID:	NYC-220349



**STONEFIELD**  
engineering & design

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[www.stonefielddeng.com](http://www.stonefielddeng.com)

15 Spring Street, Princeton, NJ 08542  
Phone 609.362.6900



PHOTOGRAPH 1



PHOTOGRAPH 2

## SITE PHOTOGRAPHS

SOURCE: GOOGLE EARTH PRO DATED AUGUST 2023

### SPARK CAR WASH PROPOSED CAR WASH

TAX MAP SECTION 96, BLOCK 96, LOTS 4 & 5  
1229 NY-300  
TOWNSHIP OF NEWBURGH, ORANGE COUNTY, NEW YORK

<b>DRAWN BY:</b>	OK
<b>CHECKED BY:</b>	PM
<b>DATE:</b>	07/01/2024
<b>SCALE:</b>	N/A
<b>PROJECT ID:</b>	NYC-220349



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PHOTOGRAPH 3



PHOTOGRAPH 4

## SITE PHOTOGRAPHS

SOURCE: GOOGLE EARTH PRO DATED AUGUST 2023

### SPARK CAR WASH PROPOSED CAR WASH

TAX MAP SECTION 96, BLOCK 96, LOTS 4 & 5  
1229 NY-300  
TOWNSHIP OF NEWBURGH, ORANGE COUNTY, NEW YORK

<b>DRAWN BY:</b>	OK
<b>CHECKED BY:</b>	PM
<b>DATE:</b>	07/01/2024
<b>SCALE:</b>	N/A
<b>PROJECT ID:</b>	NYC-220349



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ZONING BOARD OF APPEALS  
TOWN OF NEWBURGH  
ORANGE COUNTY, NEW YORK

In the Matter of the Application to the  
Town of Newburgh Zoning Board of Appeals  
for Area Variances

**Spark Car Wash, LLC**

Section 96, Block 1, Lots 4 & 5  
1229 NY 300, Town of Newburgh, New York

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**WRITTEN SUBMISSION IN SUPPORT OF APPLICATION FOR  
AREA VARIANCES**

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**CHIESA SHAHINIAN & GIANTOMASI PC**  
11 Times Square, 34<sup>th</sup> Floor,  
New York, New York 10036  
(212) 324-7260  
Attorneys for Spark Car Wash, LLC

Jennifer Porter, Esq.

In the Matter of the Application to the  
Town of Newburgh Zoning Board of Appeals  
for Area Variances

**Spark Car Wash, LLC**

Section 96, Block 1, Lots 4 & 5  
1229 NY 300, Town of Newburgh, New York

**WRITTEN SUBMISSION IN SUPPORT OF  
APPLICATION FOR AREA VARIANCES**

**I. Preliminary Statement**

This statement is submitted on behalf of Spark Car Wash, LLC (“Spark” or the “Applicant”) in support of its application seeking relief from certain Zoning Code requirements imposed under Chapter 185 of the Code of the Town of Newburgh (the “Zoning Code”) for property located at 1229 NY 300, Newburgh, New York (the “Property”). More specifically, the Applicant seeks relief from the following provisions of the Zoning Code: (1) Table of Use & Bulk Requirements, IB District – Schedule 8 to permit a rear yard setback of 44.4 feet where 60 feet is required; and (2) § 185-28.B to permit a driveway to be located 1.8 feet from the property line where 10 feet is required.

This application is submitted in connection with Spark’s application to the Town of Newburgh Planning Board for site plan approval in connection with Spark’s plans to demolish the existing structures on the property and develop a 4,841 square foot car wash facility, parking and related site improvements at the Property. For the reasons set forth below, it is respectfully requested that the variance relief sought is granted.

**II. Statement of Facts**

A. The Property

The Property is located at 1229 NY 300 and is designated on the Town of Newburgh Tax Maps



as Section 96, Block 1, Lots 4 & 5. The Property is located on two (2) lots totaling approximately 52,988 square feet or 1.216 acres and is situated in the Interchange Business (IB) Zoning District. Car wash facilities are a permitted use in the IB Zoning District.

**B. Description of Variances**

The Applicant is seeking relief from the following provisions of the Zoning Code: (1) Table of Use & Bulk Requirements, IB District – Schedule 8 to permit a rear yard setback of 44.4 feet where 60 feet is required; and (2) § 185-28.B to permit a driveway to be located 1.8 feet from the property line where 10 feet is required. For reasons set forth below, it is respectfully asserted that the relief sought by way of this application should be granted.

**III. Applicable Area Variance Standards**

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

1

The standard applied to area variance applications is statutorily prescribed. This statutory standard alone is to be used in assessing an area variance request, and no other factors are to be considered<sup>2</sup>. Under this standard, a board of zoning appeals, such as this Board, shall consider "the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant."<sup>3</sup> Five (5) factors are to guide a board

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<sup>1</sup> N.Y. Town Law §267(l)(b) (McKinney's 2020).

<sup>2</sup> See Hampshire Mgmt. Co. v. Nadel, 241 A.D.2d 496,660 N.Y.S.2d 64 (2d Dep't 1997).

<sup>3</sup> N.Y. Town Law § 267-b(3)(b) (McKinney's 2020).

in this balancing of interests, which include:<sup>4</sup>

- (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 of the neighborhood or district; and
- (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the division of the board of appeals but shall not necessarily preclude the granting of the area variance.

#### **IV. The Instant Application for Area Variances Should Be Granted**

Application of the above-stated standards to the variances requested clearly demonstrates the relief should be granted. Key to the review of an area variance is the impact the requested relief will have upon the neighborhood and nearby properties. If the variance sought yields a use that is in harmony with the surrounding neighborhood, a board of zoning appeals will be hard pressed to find that the requested relief should not be an issue<sup>5</sup>. Here, the relief sought, if granted will result in a beneficial use of the Property which is consistent with the character of the area in which it lies among NY-300, a commercial corridor in a business and commercial zone and which will not adversely impact the health, safety and welfare of the neighborhood or community.

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<sup>4</sup> N.Y. Town Law§ 267-b(3)(b) (McKinney's 2020).

<sup>5</sup> See e.g. Buckley v. Amityville Village Clerk, 264 A.D. 2d 732, 694 N.Y.S. 2d 739 (2d Dep't 1999).

#### A. Character of the Neighborhood

Granting the variances needed in connection with the proposed development will not produce an undesirable change in the character of the neighborhood. The Property is located in the I-B (Interchange Business) Zoning District. The Property is currently operating as several commercial businesses. The site is surrounded by a large variety of commercial uses, including several large shopping centers including Newburgh Plaza, the Shoppes at Union Square and the Lowe's shopping center as well as the Adams Fairacre Farms Country Food Market and Garden Center.

The area variances for rear yard setback and driveway location will have no impact on the surrounding commercial community nor will the variances the adjacent property owners since the rear of the site is wooded and the site driveway will be directly adjacent to the right-in, right-out only entrance to The Shoppes at Union Square and received preliminary Stage I review and is awaiting State 2 review from the New York State Department of Transportation.

#### B. Feasibility of Alternatives

The benefits sought by the Applicant as a result of the proposed variances cannot be achieved by other means feasible for the Applicant to pursue. The car wash configuration, queuing configuration and driveways and parking / vacuum areas require a certain amount of space thereby necessitating the need for the rear yard setback variance and site driveway configuration is the same or similar to the existing confirmation. The relief needed is necessary to satisfy both the Zoning Law requirements as well as Spark's site design requirements without increasing the need for additional or more significant setback variances for the car wash building and parking areas by pushing the building into the rear of the site where it is wooded rather than closer to the NY-300 frontage. The site driveway is very similar to the existing driveway and appropriately allows for safe turning movements into and out of the site.

C. Substantiality

The variances being proposed are not substantial as they represent the minimum relief necessary in order to accommodate the use at the site and safe access to and from the site. The Applicant is seeking two relatively minor area variances for the entirety of the project which is otherwise fully compliant with the Zoning Code.

D. Physical/Environmental Conditions in the Neighborhood

The Property is situated within the Interchange Business (I-B) Zoning District near other commercial uses along NY-300. The proposed variances will be in keeping with those of the surrounding uses in the community and thus, will not impact the physical and environmental conditions in the neighborhood or district. Moreover, the variances being sought are in keeping with the existing conditions at the Property which has functioned without negatively impacting the physical or environmental conditions in the neighborhood for years.

E. Self-Created Hardship

The Applicant seeks to improve the Property. The proposed variances that do not meet the requirements of the Zoning Code represent the minimum necessary to achieve the overall workability of the site. The variances sought are minimal in nature and scope. Thus, to the extent that the difficulty alleged for these variances is self-created, it is substantially outweighed by the benefits this project will bring to the surrounding community and therefore, should not preclude the granting of the variances.

**V. Conclusion**

For the reasons set forth above, Spark respectfully asserts that this Board grant Spark's request for the variances set forth above.

Dated: July 8, 2024

Respectfully submitted,

**CHIESA SHAHINIAN & GIANTOMASI PC**

By: *Jennifer M. Porter*

Jennifer M. Porter  
Attorney for Spark Car Wash, LLC.



ORANGE COUNTY – STATE OF NEW YORK  
 KELLY A. ESKEW, COUNTY CLERK  
 255 MAIN STREET  
 GOSHEN, NEW YORK 10924

COUNTY CLERK'S RECORDING PAGE  
 \*\*\*THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH\*\*\*



BOOK/PAGE: 15474 / 1154  
 INSTRUMENT #: 20230058539

Receipt#: 3204535  
 Clerk: AV  
 Rec Date: 09/29/2023 04:19:18 PM  
 Doc Grp: D  
 Descrip: DEED  
 Num Pgs: 6  
 Rec'd Frm: HILL-N-DALE ABSTRACTERS, INC.

Party1: LITTLE BRICK HOUSE PROPERTIES  
 LLC  
 Party2: POMARICO PROPERTIES LLC  
 Town: NEWBURGH (TN)  
 96-1-5

Recording:

Recording Fee	50.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 All others - State	241.00
RP5217 - County	9.00

Sub Total: 325.00

Transfer Tax	
Transfer Tax - State	0.00

Sub Total: 0.00

Total: 325.00

\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*

\*\*\*\*\* Transfer Tax \*\*\*\*\*  
 Transfer Tax #: 1483  
 Commercial Transfer Tax  
 Consideration: 0.00

Total: 0.00

Payment Type: Check \_\_\_  
 Cash \_\_\_  
 Charge \_\_\_  
 No Fee \_\_\_

Comment: \_\_\_\_\_

STATE OF NEW YORK, COUNTY OF ORANGE ss:  
 I, Kelly A. Eskew, County Clerk and Clerk of the Supreme  
 and County Courts, Orange County, do hereby certify that I  
 have compared this copy with the original thereof filed or  
 recorded in my office 9/29/2023 and the same is a correct  
 transcript thereof in witness whereof, I have hereunto set my  
 hand and affixed my official seal 07/08/2024.

*Kelly A. Eskew*  
 County Clerk & Clerk of the Supreme County Courts  
 Orange County

*Kelly A. Eskew*

Kelly A. Eskew  
 Orange County Clerk

Record and Return To:

ELECTRONICALLY RECORDED BY SIMPLIFILE

Bargain & sale deed, with covenant against grantor's acts

**THIS INDENTURE**, made the 2<sup>nd</sup> day of August, 2023.

**BETWEEN**

**LITTLE BRICK HOUSE PROPERTIES, LLC**, a limited liability company with an office at 1229 Route 300, Newburgh, NY 12550,

party of the first part, and

**POMARICO PROPERTIES, LLC**, a limited liability company with an office at 1229 Route 300, Newburgh, NY 12550

**WITNESSETH**, that the party of the first part, in consideration of TEN AND 00/100 (\$10.00) DOLLARS, lawful money of the United States and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange, State of New York, being more particularly bounded and described on Schedule A annexed hereto and made a part hereof.

**SUBJECT TO** any and all covenants, easements and grants and restrictions of record.

**BEING AND INTENDED TO BE** the same premises conveyed in a certain deed dated July 2, 2003 made by Builders Marketing Group, Inc. to Little Brick House Properties, LLC, the grantor herein, and recorded on July 8, 2003 in the Office of the Orange County Clerk in Liber 11111 at Page 1179.

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

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

96-1-5

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

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

IN PRESENCE OF:

LITTLE BRICK HOUSE PROPERTIES, LLC

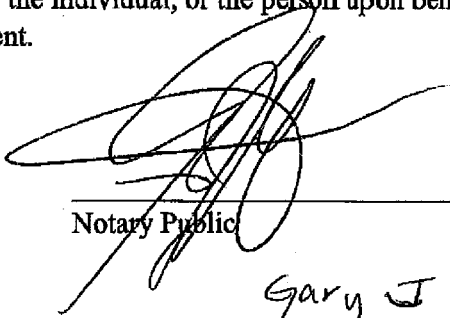
BY:   
MICHAEL F. POMARICO, MEMBER

STATE OF NEW YORK )

) ss.:

COUNTY OF ORANGE )

On the 2<sup>nd</sup> day of August in the year 2023, before me, the undersigned, a Notary Public in and for the State, personally appeared, MICHAEL F. POMARICO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

Gary J Gogerty  
Notary Public  
Orange County, NY  
Exp 06/30/21  
# 01904834057



**SCHEDULE "A"**

**DESCRIPTION**  
**LITTLE BRICKHOUSE PROPERTIES, LLC**  
**TOWN OF NEWBURGH**  
**ORANGE COUNTY, NEW YORK**

---

All that certain plot, piece, or parcel of land situate in the Town of Newburgh, County of Orange, State of New York, said lands being more particularly bounded and described as follows:

**BEGINNING** at a point lying on the northwesterly line of Union Avenue (NY State Highway No. 300), said point being the southerly corner of lands herein described and an easterly corner of lands now or formerly Union Orr, LLC,

**THENCE** running along a northeasterly line of lands of said Union Orr, LLC, being a southwesterly line of lands herein described,

- (1) North 61 degrees, 40' 50" West, as per Liber 5053 of Deeds at Page 116, a distance of 208.38 feet, to a point being the westerly corner of lands herein described;

**THENCE** running along a portion of a southeasterly line of lands of said Union Orr, LLC, being the northwesterly line of lands herein described,

- (2) North 27 degrees, 20' 00" East, a distance of 125.01 feet, to a point being the northerly corner of lands herein described and the westerly corner of lands now or formerly Pomarico Enterprises, LLC,

**THENCE** running along the southwesterly line of lands of said Pomarico Enterprises, LLC, being the northeasterly line of lands herein described,

- (3) South 61 degrees, 40' 50" East, a distance of 208.93 feet, to a point being the southerly corner of lands of said Pomarico Properties, LLC, the easterly corner of lands herein described and lying on the northwesterly line of Union Avenue (NY State Highway No. 300),

**THENCE** running along the northwesterly line of said Union Avenue, being the southeasterly line of lands herein described,

- (4) South 25 degrees, 17' 34" West, a distance of 125.17 feet, to the point or place of **BEGINNING**;

All as shown on a survey map entitled "Survey Prepared For Littlebrickhouse Properties, LLC, Town of Newburgh, Orange County, New York", dated June 20, 2008, last revised March 8, 2017, prepared by Lane & Tully Engineering and Surveying, P.C.  
Containing 0.592 ± acres.

**DESCRIPTION**  
**LITTLE BRICKHOUSE PROPERTIES, LLC**  
**TOWN OF NEWBURGH**  
**ORANGE COUNTY, NEW YORK**

Premises herein described being Tax Map Lot No. 5, in Block 1, within Section 98, as shown on the Tax Maps of the Town of Newburgh, Orange County, New York dated 2016.

---

Premises herein described being the same premises as described in Liber 11111 of Deeds at page 1179, as filed in the Orange County Clerk's Office.

Premises herein described being subject to any easements, rights-of-way, covenants or restrictions of record.

**BARGAIN AND SALE DEED  
WITH COVENANT AGAINST GRANTOR'S ACTS**

\*\*\*\*\*

**LITTLE BRICK HOUSE PROPERTIES, LLC**

to

**POMARICO PROPERTIES, LLC**

\*\*\*\*\*

**SECTION 96**

**BLOCK 1**

**LOT 5**

**T/O NEWBURGH; C/O ORANGE**

**Record and Return to:**

**DRAKE LOEB PLLC**

**Gary J. Gogerty, Esq.**

**555 Hudson Valley Avenue, Suite 100**

**New Windsor, NY 12553**

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

TYPE IN BLACK INK:
NAME(S) OF PARTY(S) TO DOCUMENT

MARIETTA POMARICO ALLEN
VINCENT POMARICO, JR &
MICHAEL F. POMARICO

TO
POMARICO PROPERTIES, LLC

SECTION 96 BLOCK 1 LOT 4

RECORD AND RETURN TO:
(name and address)

RICHARD CLARINO, ESQ.
7 MACE CIRCLE
NEWBURGH, NY 12550



THIS IS PAGE ONE OF THE RECORDING

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED [checked] MORTGAGE SATISFACTION ASSIGNMENT OTHER

PROPERTY LOCATION

Table with columns for address, location (e.g., BLOOMING GROVE (TN)), and other details like NO PAGES, CROSS REF, etc.

Handwritten signature of Donna L. Benson

DONNA L. BENSON
ORANGE COUNTY CLERK

Received From [Handwritten Signature]

RECORDED/FILED
05/23/2007/ 10:21:29
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY
FILE # 20070059026
DEED C / BK 12450 PG 1688
RECORDING FEES 207.00
TTX# 008657 T TAX 0.00
Receipt#740134 suenay

STATE OF NEW YORK, COUNTY OF ORANGE ss:
I, Kelly A. Eskew, County Clerk and Clerk of the Supreme
and County Courts, Orange County, do hereby certify that I
have compared this copy with the original thereof filed or
recorded in my office 5/23/2007 and the same is a correct
transcript thereof in witness whereof, I have hereunto set my
hand and affixed my official seal 07/08/2024.

[Handwritten Signature]
County Clerk & Clerk of the Supreme County Courts
Orange County



## BARGAIN AND SALE DEED

**THIS INDENTURE**, made this 18<sup>th</sup> day of March, 2007 by and between MARIETTA POMARICO ALLEN, having an address at 11 Colden Hill Road, Newburgh, New York 12550, VINCENT POMARICO, JR., having an address at 64 Ridge Road, Marlboro, New York 12542 and MICHAEL F. POMARICO, having an address at 48 Kettle Court, Newburgh, New York 12550 (Grantor), and POMARICO PROPERTIES, LLC., having an address at 1229 Route 300, Newburgh, New York 12550 (Grantee).

**WITNESSETH**, that Grantor, in consideration of Ten Dollars and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and release unto Grantee and her heirs, executors, administrators, successors and assigns forever, the parcel of land described as follows:

**ALL** that certain plot, piece or parcel of land situate, lying and being in the Town of Newburgh, County of Orange and State of New York, being more particularly described in the annexed "Schedule A".

**BEING** the same premises conveyed by Vincent J. Pomarico & Lucia Pomarico to Marietta Pomarico Allen, Vincent Pomarico, Jr. and Michael F. Pomarico by deed dated December 28, 1989 and recorded in the Office of the Orange County Clerk on December 29, 1989 liber 3234 of deeds at page 57.

**SAID PREMISES** are not located within an agricultural district and are wholly owned by the grantor.

**TOGETHER** with all right, title and interest, if any, of Grantor in and to any streets and roads abutting said premises to the center lines thereof,

**TOGETHER** with the appurtenances and all the estate and rights of Grantor in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto Grantee and her heirs, executors, administrators, successors and assigns forever.

Grantor covenants that Grantor has not done or suffered anything whereby said premises have been encumbered in any way whatever, except as set forth herein.

Grantor, in compliance with Section 13 of the Lien Law, covenants that he will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement before using any part of the total of the same for any other purpose.

**SCHEDULE A**

Allen, Pomarico & Pomarico  
to  
Pomarico Properties, LLC.

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange and State of New York, and more particularly described as follows:

BEGINNING at a point in the Westerly line of Union Avenue, said point being located 1117.79 feet southerly as measured along the line of Union Avenue from the intersection of said Westerly line of Union Avenue with the southerly line of Cohecton Turnpike which is also known as Route 17K; thence from the point of beginning and along the westerly line of Union Avenue on the following two courses South 22 degrees 31.75 feet to a point; thence North 61 degrees 40' 50" West 213.85 feet to a point; thence North 27 degrees 20' East 125.01 feet to a point; thence South 61 degrees 40' 50" East 205.83 feet to the point of beginning.

IN WITNESS WHEREOF, Grantor has duly executed this deed on the date first above written.

Marietta Pomarico Allen  
MARIETTA POMARICO ALLEN

x Vincent Pomarico Jr  
VINCENT POMARICO, JR.

Michael F. Pomarico  
MICHAEL F. POMARICO

STATE OF NEW YORK)

COUNTY OF ORANGE )ss:

On the 18 day of MARCH, 2007 before me, the undersigned, a Notary Public in and for said State, personally appeared Marietta Pomarico Allen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed said instrument.

Hedwig Helen Mlott  
Notary Public: State of New York

HEDWIG HELEN MLOTT  
Notary Public, State of New York  
No. 4991824  
Qualified in Orange County  
Commission Expires Feb. 10, 2010

STATE OF NEW YORK)

COUNTY OF ORANGE )ss:

On the 18 day of MARCH, 2007 before me, the undersigned, a Notary Public in and for said State, personally appeared Vincent Pomarico, Jr. personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed said instrument.

Hedwig Helen Mlott  
Notary Public: State of New York

HEDWIG HELEN MLOTT  
Notary Public, State of New York  
No. 4991824  
Qualified in Orange County  
Commission Expires Feb. 10, 2010

STATE OF NEW YORK)

COUNTY OF ORANGE )ss:

On the 18 day of MARCH, 2007 before me, the undersigned, a Notary Public in and for said State, personally appeared Michael F. Pomarico, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed said instrument.

Hedwig Helen Mlott  
Notary Public: State of New York

HEDWIG HELEN MLOTT  
Notary Public, State of New York  
No. 4991824  
Qualified in Orange County  
Commission Expires Feb. 10, 2010

**AFFIDAVIT OF POSTING(S) OF  
NOTICE OF PUBLIC HEARING  
AT THE PROPERTY**

STATE OF NEW YORK: COUNTY OF ORANGE:

I Erica A. Parlavecchio, being duly sworn, depose and say that I did on or before

July 11, 2024, post and will thereafter maintain at

1227-1229 Route 300 96-1-4 & 5 IB Zone in the Town of Newburgh, New York, at or near the front

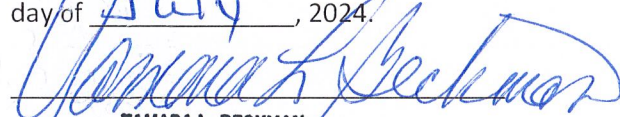
property line(s) and within view of each fronting street a copy(ies) of the Notice of Public Hearing, which notice was in the form attached hereto.

The applicant shall maintain and update notice(s) (with amended information if there is any change to the information contained in the original Notice of Hearing) until after the Public Hearing is closed. The Notice must then be removed and property disposed of within ten (10) days of the close of the Public Hearing. Failure to follow the required procedure may result in the Public Hearing being held open for additional time.

  
\_\_\_\_\_

Sworn to before me this 10<sup>th</sup>

day of July, 2024.

  
\_\_\_\_\_

**TAMARA L. BECKMAN  
A NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES AUGUST 15, 2025**





TOWN OF NEWBURGH

*Charter of the Town*  
ZONING BOARD OF APPEALS  
23 Hudson Valley Professional Plaza  
Newburgh, NY 12550

OFFICE OF ZONING BOARD OF APPEALS  
DARON SCALISE, CHAIRMAN  
ROBERTA JARLESON, SECRETARY  
TELEPHONE 845-544-4793  
FAX LINE 845-544-7882

NOTICE OF HEARING

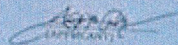
NOTICE is hereby given that, pursuant to Section 247-a (1) of the Town Law, State of New York and Section 185-55A (1) of the Zoning Ordinance of the Town of Newburgh, a Public Hearing will be held by the Zoning Board of Appeals of the Town of Newburgh, New York on Thursday the 25th day of July, 2024 at 7:00 P.M., in the Town Hall, 1494 Route 306, Town of Newburgh, New York, to act upon the following appeal:

APPLICATION of Spark Car Wash (Planning Board) for ASAP variance of the front yard setback and the driveway setback to the property line. The project involves a 4,234 sq. ft. Car Wash with a drive and canopy in the front yard that was proposed on 10/10/2023.

PREMISES LOCATED AT 1227-1223 Route 306, T.R. 1.4 A.3, 18 Zone, in the Town of Newburgh, New York.

**TAKE NOTICE** that the applicant should appear at the hearing and all persons interested in any way may appear and be heard by the Board.

BY ORDER of the Zoning Board of Appeals dated the 11th day of July, 2024.

  
CHAIRPERSON





