

CLIFFORD L. DAVIS
ATTORNEY AT LAW

44 CHURCH STREET
WHITE PLAINS, NEW YORK 10601

—
(914) 548-7422
cdavis@clifforddavis.com
www.clifforddavis.com

December 1, 2025

Zoning Board of Appeals
Town of Ossining
101 Route 9A
Ossining, NY 10562

Re: 512 North State Road

Dear Honorable Members of the Zoning Board of Appeals:

I am counsel for the RoseMarie Miller, regarding her adjoining property at 2 Blue Lantern Road, Ossining, NY, adjacent to the property of 512 North State Road (the "Applicant"). The application of 512 North State Road should be denied in full.

This Board has no jurisdiction here. It is a board of appellate review and can only hear appeals from an order, requirement, decision or determination made by an administrative official. Town Code 200-44.A. Here, there is nothing to be appealed from. The Applicant has not made any application, which led to a determination that can be appealed from.

There are presently outstanding violations as to this application, which are pending before the Town of Ossining Justice Court. The matter was supposed to have been heard on December 1, 2025. The Applicant represented to the Court earlier that it was going to make application to the Planning Board for site plan approval to address the violations.

The site plan, attached to the application, is dated August 16, 2007. Notably that site plan required 10-20 feet high white pines, 7-8 feet high white pines and an eight feet high stockade fence. Nor was any lighting approved on that site plan; lighting

must come out.

The applicant has made no attempt to comply with the 2007 site plan.

As to the zoning code Section 200-18.D.(2) and(4) addresses screening, as here, where there is a nonresidential zone which backs up to the residential zone of my clients. It requires a buffer area of at least 20 feet in which there needs to be a mix of evergreen shrubs and coniferous and deciduous tree species. Further, all vegetation not properly maintained has to be replaced with new comparable vegetation at the beginning of the next growing season. The Applicant removed all of that vegetation and must restore it.

Changes to the gate were not on the existing site plan. That also should be restored. My client confirmed with the Highway Department that the gate was not required by the Town to access the brook.

Attached hereto is the February 7, 2025 expert letter of our engineer, Eliot Senor. As explained by Expert Engineer Senor, the site plan required a rear lot setback of 10 feet. The parking lot as built is as close to 5 feet from the property line, and the applicant apparently wants that to be amended to only 2 feet. The Applicant is before the wrong Board. Its application should be for a site plan amendment to the Planning Board. Only if the Planning Board turns down the Applicant can the Applicant seek the assistance of this Board. The Applicant can comply with the 2007 site plan or comply with the present law as set forth below.

As set forth in this GB zone where the commercial restaurant backs up to a residential use, my client, pursuant to Town Code 200-18.D(2) and (4) the "parking areas for any nonresidential use shall be located at least 20 feet from a residentially used lot or residentially zoned lot." The Applicant ignores this requirement and wants to be as close as 2 feet to my clients. That same statute requires screening from adjoining lots "with a mix of native, noninvasive evergreen shrubs, and coniferous and deciduous tree species." The Applicant here ignores this requirement and provides no screening whatsoever and has taken out screening that existed. Further, all vegetation must be maintained and replaced at the beginning of the next growing season.

Attached hereto are photos that show what existed and what the Applicant took out without any permission. The photos demonstrate that previously the restaurant was screened, and now there is virtually no screening, and that my clients can see the busy

commercial restaurant and parking lot in full.

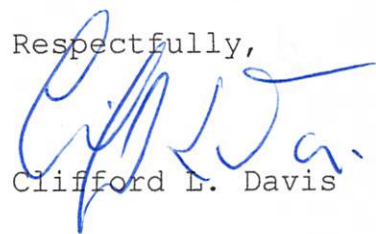
For the Board's convenience, I attach the appropriate documents that this Board should consider, including the outstanding violations issued by the Building Inspector.

On balance the variance sought here will create great harm to my client, and create an undesirable change in the character of the neighborhood and will be a detriment to nearby properties. As set forth above, the Code protects my residential client from the impacts of the neighboring commercial use. Yet the Applicant wishes to destroy that protection. It does so by ignoring the law, ignoring the required setback, eliminating required screenings. At only 2 feet the cars will park virtually on top of my clients.

The variance sought is self-created; the applicant agreed to the 2007 site plan. Further, the Applicant can properly run its restaurant if it complied with its 2007 site plan. Yet, the Applicant wants more, and does not even seek modification from the Planning Board. There is no need for this variance. The Applicant has not demonstrated that it cannot operate its restaurant unless it receives this variance.

For the following reasons the application should be denied.

Respectfully,



Clifford L. Davis

Encl.

Re: 512 North State Road Town of Ossining

From Clifford Davis <cdavis@clifforddavis.com>

Date Tue 7/29/2025 4:41 PM

To Christie Addona <addona@szlawfirm.net>

Cc millerroro@aol.com <millerroro@aol.com>

 1 attachment (879 KB)

Briar's Site Plan.pdf;

Dear Christie, Thank you for getting back to me. However, reverting to before the violations is vague and ambiguous. There should be an order that Abel has to engage in specific actions that the Building Inspector can enforce if the actions are not done.

48 Abel has to comply with the prior site plan of August 16, 2007 as to which he received approval from, which is attached hereto. Notably that site plan required 10-20 feet high white pines, 7-8 feet high white pines and a feet high stockade fence. Nor was any lighting approved on that site plan; lighting must come out.

It is not enough to restore curbing and cutting the parking lot back to the existing site plan by September 8, 2025, although that should be memorialized in writing.

As to the zoning code please look at Section 200-18.D.(2) and(4) regarding screening, as here, where there is a nonresidential zone which backs up to the residential zone of my clients. It requires a buffer area of at least 20 feet in which there needs to be a mix of evergreen shrubs and coniferous and deciduous tree species. Further, all vegetation not properly maintained has to be replaced with new comparable vegetation at the beginning of the next growing season. Thus, when the curb is restored the defendant needs to restore the screening. Abel removed all of that vegetation and must restore it.

Changes to the gate were not on the existing plan. That also should be restored. My client confirmed with the Highway Department that the gate was not required by the Town to access the brook.

I appreciate your courtesies and if you can pass this email on to the Building Inspector so that he knows precisely what needs to be enforced. Best, Cliff

Clifford L. Davis, Esq.
44 Church Street
White Plains, NY 10601
Tel. 914-548-7422
cdavis@clifforddavis.com
<http://www.clifforddavis.com/>

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding any tax penalty or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Privileged Information: This message, together with any attachments, is intended only for the use of the individual

or entity to which it is addressed and may contain information that is legally privileged, confidential and/or exempt from disclosure. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please delete this message, along with any attachments, from your computer. Thank you.

From: Christie Addona <addona@szlawfirm.net>
Sent: Tuesday, July 29, 2025 3:36 PM
To: Clifford Davis <cdavis@clifforddavis.com>
Subject: RE: 512 North State Road Town of Ossining

My understanding is that the property owner is going to revert the property back to its condition before the violations. Yes, previously he indicated he intended to make a Planning Board application, but that is no longer the case.

Christie Tomm Addona

120 White Plains Road, Suite 305
Tarrytown, N.Y. 10591
Telephone (914) 682-0707 ext. 306
Facsimile (914) 682-0708
Addona@szlawfirm.net
www.szlawfirm.net

Disclaimer Statement: Treasury Regulations require that we inform you that any tax advice contained in or attached to this written communication is not intended or written to be used, and cannot be used, for purposes of avoiding any penalties otherwise applicable under the Internal Revenue Code.

CONFIDENTIALITY NOTICE SILVERBERG ZALANTIS LLC:

This message is intended to be viewed only by the individual or entity to whom it is addressed. It may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any dissemination, distribution or copying of this communication is strictly prohibited without our prior permission. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, or if you have received this communication in error, please notify us immediately by return e-mail and delete the original message and any copies of it from your computer system. Thank You.

From: Clifford Davis <cdavis@clifforddavis.com>
Sent: Tuesday, July 29, 2025 11:03 AM
To: Christie Addona <addona@szlawfirm.net>
Cc: millerroro@aol.com
Subject: Re: 512 North State Road Town of Ossining

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
--

Hi Christie: I have not heard back from you from July 16, 2025 email. I look forward to your response. Thanks, Cliff

Chapter 200. Zoning

Article XI. Planning Board

§ 200-50. Approval of site plans.

[Amended 9-16-1969 by Ord. No. 73; 4-22-1975 by Ord. No. 83]

In any case wherein this chapter provides for or requires the submission of site development plans showing the proposed development and/or use of any land to the Planning Board for review, the final action on the approval of such site plans is hereby delegated to the Planning Board, and any building or use permit for the development and/or use of such land and any certificate of occupancy or compliance shall only be issued subject to the continued compliance with such approved site plans and any restrictions imposed in relation thereto by the Planning Board. In all such cases, no building permit shall be issued by the Building Inspector except upon the authorization of and in conformity with the site as finally approved by the Planning Board.

A. Objectives. In considering and acting upon site plans, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:

- (1) Traffic access. That all proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
- (2) Circulation and parking. That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.
- (3) Landscaping and screening. That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight inches in diameter measured three feet above the base of the trunk shall be retained to the maximum extent possible.
- (4) Lighting.
[Added 10-3-2017 by L.L. No. 6-2017]
 - (a) Outdoor lighting shall be provided on the site to assure the safe movement of vehicles and persons and for security purposes. Exterior lighting in connection with all buildings, signs and other uses shall be downward pointing, properly designed and shielded, and directed away from adjoining streets and properties so as to avoid any objectionable glare from being observable from such streets and properties.
 - (b) The hours of lighting may be limited by the Planning Board in acting on any site plan so as to prevent undesirable impacts on neighboring properties and streets.

(c) No use shall cause illumination beyond the property on which it is located in excess of 0.5 footcandle, or the equivalent, as demonstrated by an illumination contour plan.

(d) The color temperature of outdoor lighting shall not exceed 3,000 Kelvin (3,000 K).

B. Effect of site plan approval.

(1) No building permit shall be issued for any structure covered by this section until an approved site plan or approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Building Inspector.

(2) No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site plan or approved amendment of any such plan.

(3) Prior to final action, the Planning Board shall refer any matter involving any of the areas specified in Article XII, §§ 200-52E(1)(a) through (e), to the Westchester County Planning Board in accordance with Section 277.61 of Chapter 277 of the Westchester County Administrative Code.

[Amended 3-26-1985 by L.L. No. 2-1985^[1]]

[1] *Editor's Note: Original Subsection 9.2.2.4, which immediately followed this subsection and which provided for review by the Hudson River Valley Commission, was repealed during codification; see Ch. 1, General Provisions, Art. II.*

(4) A proposed change to the use or the intensity of use of any existing use which is subject to site plan approval under this chapter shall also be subject to site plan approval.

[Added 3-10-1981 by Ord. No. 106]

C. Procedure.

[Amended 9-16-1969 by Ord. No. 73]

(1) Presubmission conference. Prior to the submission of a site plan, the applicant shall meet in person with the Planning Board. The purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site plan elements listed in Subsection D shall be submitted to the Planning Board in order for said Board to determine conformity with the provisions and intent of this chapter.

(2) Within six months following the presubmission conference, the site plan and any related information shall be submitted to the Building Inspector in triplicate at least 15 days prior to the Planning Board meeting at which approval is requested. If not submitted within this six-month period, another presubmission conference shall be required.

(3) The Building Inspector shall certify on each site plan or amendment whether or not the plan meets the requirements of all Zoning Ordinance provisions other than those of this section regarding site plan approval.

(4) The Building Inspector shall retain one copy and transmit two copies of the certified site plan to the Secretary of the Planning Board at least seven days prior to the Planning Board meeting at which approval is requested.

(5) The Planning Board shall not render a decision upon any site plan application without first holding a public hearing. Such public hearing shall be held within 62 days from the date an application is received by said Board. Notice of said hearing and of the substance of the application shall be given by publication in the official newspaper of the Town at least 10 days before the date of such hearing. In addition to such published notice, the Town Board shall cause such notice to be mailed at least 10 days before the hearing to all owners of property which lies within 500 feet of any lot line of the property for which site plan approval is sought and to such other persons as the Planning Board may deem advisable. The names of said owners shall be taken as they appear on the last completed assessment roll of the Town. Provided that due notice shall have been published and there shall have been substantial

compliance with the remaining provisions of the section, the failure to give notice in exact conformance herewith shall not be deemed to invalidate any action taken by the Planning Board in connection with the granting of such approval. The Planning Board shall render a decision on the site plan application within 62 days after said hearing, and the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy thereof mailed to the applicant. Planning Board disapproval shall include written findings upon any site plan element found contrary to the provisions or intent of this chapter. In reviewing the application, the Planning Board may secure the advice or assistance of one or more expert consultants as qualified to advise whether a proposed use will conform to the requirements of this chapter. The assistance of a consultant, if sought, must be obtained within 10 days of the receipt of the application. Such consultant shall report within 30 days after receipt of such request. A copy of the report of such consultants shall be furnished to the applicant.

[Amended 8-9-1994 by L.L. No. 5-1994; 12-15-2015 by L.L. No. 5-2015]

- (6) Amendments to a site plan shall be acted upon in the same manner as the approval of the original plan.
- (7) The Planning Board may require that site plan approval be periodically reviewed.
- (8) No proposed improvements or change of use may be implemented and no building permit or certificate of occupancy may be issued until:
[Added 4-11-1995 by L.L. No. 2-1995]
 - (a) Site plan approval from the Planning Board for said improvements or change of use is granted by resolution.
 - (b) All conditions required by said resolution to be fulfilled prior to the signing of the site plans by the Planning Board Chairman have been fulfilled.
 - (c) The site plans, revised if so required by said resolution, have been signed by the Planning Board Chairman.
- (9) Expiration of site plan approval.
[Added 4-11-1995 by L.L. No. 2-1995]
 - (a) Site plan approval shall expire if:
 - [1] All of the conditions required to be fulfilled prior to the signing of the site plans by the Planning Board Chairman are not fulfilled within one year from the date of the adoption of site plan approval and if said plans are not submitted for endorsement by the Chairman within said one-year period.
 - [2] All required improvements are not maintained and if all conditions and standards of the site plan approval are not complied with throughout the duration of the approved use.
 - [3] A bona fide application for a building permit or a certificate of occupancy is not made within one year from the date of the endorsement of the site plans by the Planning Board Chairman.
 - [4] All required improvements are not substantially completed within two years from the date of the endorsement of the site plans by the Planning Board Chairman. The staging of a development over a longer period may be specifically provided for by the Planning Board in its resolution of site plan approval.
 - (b) The Planning Board may extend site plan approval if, in its opinion, such extension is warranted by the particular circumstances involved.

- D. Site plan elements. The applicant shall cause a site plan map to be prepared by a civil engineer, surveyor, land planner, architect or other competent person. The site plan shall include those of the elements listed herein which are appropriate to the proposed development or use as indicated by the Planning Board in the presubmission conference. Those items which are shown graphically shall be shown in a manner(s) which allows the Planning Board to envision the various elements of said development or use, including, at the discretion of the Board, the preparation of plans, sections, elevations, perspectives, etc., as applicable.
[Amended 10-3-2017 by L.L. No. 6-2017]

(1) Legal data.

- (a) The section, plate, block and lot number of the property taken from the latest tax records.
- (b) The name and address of the owner of record.
- (c) The name and address of the person, firm or organization preparing the map.
- (d) The date, North point and written and graphic scale.
- (e) A sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.
- (f) The locations, names and existing widths of adjacent streets and curblines.
- (g) The locations and owners of all adjoining lands as shown on the latest tax records.
- (h) The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.
- (i) A complete outline of existing deed restrictions or covenants applying to the property.
- (j) Existing zoning.

(2) Natural features.

- (a) Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Board.
- (b) Approximate boundaries of any areas subject to flooding or stormwater overflows.
- (c) Locations of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more measured three feet above the base of the trunk and other significant existing features.
- (d) Any stream within 200 feet of the property. If the name of the stream is not known, it shall be shown as a tributary to a named stream.

(3) Existing structures and utilities.

- (a) Location of uses and outlines of structures drawn to scale on and within 200 feet of the lot line.
- (b) Paved areas, sidewalks and vehicular access between the site and public streets.
- (c) Locations, dimensions, grades and flow direction of existing sewers, culverts and waterlines, as well as other underground and aboveground utilities within and adjacent to the property.
- (d) Other existing development, including fences, landscaping and screening.

(4) Proposed development.

- (a) The location of proposed buildings or structural improvements.

- (b) The location and design of all uses not requiring structures, such as off-street parking and loading areas. Permeable pavement shall be used for said parking and loading areas unless otherwise approved by the Planning Board.
 - (c) The location, direction, power and time of use for any proposed outdoor lighting or public address systems.
 - (d) The location and plans for any outdoor signs.
 - (e) The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas. Profiles indicating grading and cross sections showing width of roadways, location and width of sidewalks, and location and size of water and sewer lines. Permeable pavement shall be used for said driveways and other paved areas unless otherwise approved by the Planning Board.
 - (f) Any proposed grading, screening and other landscaping, including types and locations of proposed street trees. Structural soil shall be used in the planting of landscaping and street trees in areas that would pose as a barrier to air, water and/or root growth at the plant's mature size.
 - (g) The location of all proposed waterlines, valves and hydrants and of all sewer lines or alternate means of water supply and sewage disposal and treatment.
 - (h) An outline of any proposed easements, deed restrictions or covenants.
 - (i) Any contemplated public improvements on or adjoining the property.
 - (j) If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development.
- (5) Any other information deemed by the Planning Board necessary to determine conformity of the site plan with the intent and regulations of this chapter.



TOWN OF OSSINING BUILDING DEPARTMENT

No. 1643

OSSINING OPERATIONS CENTER

101 ROUTE 9A — 2ND FLOOR

P.O. Box 1166

OSSINING, NY 10562

(914) 762-8419 FAX (914) 944-0195

Date: 2/26 2024

NOTICE OF AND ORDER TO REMEDY VIOLATION

To: S12 NORTH INC
S12 NORTH STATE ROAD
BRILLIANCE MANOR, NY 10510
(ABEL MAGANA) 914-629-8096

You are in Violation of: ☒ Town of Ossining Code of Ordinances
☐ New York State Building & Fire Code
☐ Other: _____

Property Location: S12 NORTH STATE ROAD

shown on the Tax Map as: Section 90.19 Plate _____ Block 2 Lot 15

YOU ARE IN VIOLATION OF:

ZOO-5 APPROVAL OF STEPAN
A.
(3) LANDSCAPING AND SCREENING

(4) LIGHTING

This violation must be corrected immediately. Failure to remedy the conditions and to comply with the applicable provisions of the Law may constitute an offense punishable by fine or imprisonment or both.

Re-inspection Date: 3/26 2024

[Signature]
Building Inspector

Town of Ossining, NY
Monday, February 26, 2024

Chapter 200. Zoning

Article XI. Planning Board

§ 200-50. Approval of site plans.

[Amended 9-16-1969 by Ord. No. 73; 4-22-1975 by Ord. No. 83]

In any case wherein this chapter provides for or requires the submission of site development plans showing the proposed development and/or use of any land to the Planning Board for review, the final action on the approval of such site plans is hereby delegated to the Planning Board, and any building or use permit for the development and/or use of such land and any certificate of occupancy or compliance shall only be issued subject to the continued compliance with such approved site plans and any restrictions imposed in relation thereto by the Planning Board. In all such cases, no building permit shall be issued by the Building Inspector except upon the authorization of and in conformity with the site as finally approved by the Planning Board.

A. Objectives. In considering and acting upon site plans, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:

- (1) Traffic access. That all proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
- (2) Circulation and parking. That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.
- (3) Landscaping and screening. That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight inches in diameter measured three feet above the base of the trunk shall be retained to the maximum extent possible.
- (4) Lighting.
[Added 10-3-2017 by L.L. No. 6-2017]
 - (a) Outdoor lighting shall be provided on the site to assure the safe movement of vehicles and persons and for security purposes. Exterior lighting in connection with all buildings, signs and other uses shall be downward pointing, properly designed and shielded, and directed away from adjoining streets and properties so as to avoid any objectionable glare from being observable from such streets and properties.
 - (b) The hours of lighting may be limited by the Planning Board in acting on any site plan so as to prevent undesirable impacts on neighboring properties and streets.
 - (c) No use shall cause illumination beyond the property on which it is located in excess of 0.5 footcandle, or the equivalent, as demonstrated by an illumination contour plan.
 - (d) The color temperature of outdoor lighting shall not exceed 3,000 Kelvin (3,000 K).

B. Effect of site plan approval.

- (1) No building permit shall be issued for any structure covered by this section until an approved site plan or approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Building Inspector.
- (2) No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site plan or approved amendment of any such plan.
- (3) Prior to final action, the Planning Board shall refer any matter involving any of the areas specified in Article XII, §§ 200-52E(1)(a) through (e), to the Westchester County Planning Board in accordance with Section 277.61 of Chapter 277 of the Westchester County Administrative Code.
[Amended 3-26-1985 by L.L. No. 2-1985⁽¹⁾]
[⁽¹⁾ Editor's Note: Original Subsection 9.2.2.4, which immediately followed this subsection and which provided for review by the Hudson River Valley Commission, was repealed during codification; see Ch. 1, General Provisions, Art. II.]
- (4) A proposed change to the use or the intensity of use of any existing use which is subject to site plan approval under this chapter shall also be subject to site plan approval.
[Added 3-10-1981 by Ord. No. 106]

C. Procedure.

[Amended 9-16-1969 by Ord. No. 73]

- (1) Presubmission conference. Prior to the submission of a site plan, the applicant shall meet in person with the Planning Board. The purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site plan elements listed in Subsection D shall be submitted to the Planning Board in order for said Board to determine conformity with the provisions and intent of this chapter.
- (2) Within six months following the presubmission conference, the site plan and any related information shall be submitted to the Building Inspector in triplicate at least 15 days prior to the Planning Board meeting at which approval is requested. If not submitted within this six-month period, another presubmission conference shall be required.
- (3) The Building Inspector shall certify on each site plan or amendment whether or not the plan meets the requirements of all Zoning Ordinance provisions other than those of this section regarding site plan approval.
- (4) The Building Inspector shall retain one copy and transmit two copies of the certified site plan to the Secretary of the Planning Board at least seven days prior to the Planning Board meeting at which approval is requested.
- (5) The Planning Board shall not render a decision upon any site plan application without first holding a public hearing. Such public hearing shall be held within 62 days from the date an application is received by said Board. Notice of said hearing and of the substance of the application shall be given by publication in the official newspaper of the Town at least 10 days before the date of such hearing. In addition to such published notice, the Town Board shall cause such notice to be mailed at least 10 days before the hearing to all owners of property which lies within 500 feet of any lot line of the property for which site plan approval is sought and to such other persons as the Planning Board may deem advisable. The names of said owners shall be taken as they appear on the last completed assessment roll of the Town. Provided that due notice shall have been published and there shall have been substantial compliance with the remaining provisions of the section, the failure to give notice in exact conformance herewith shall not be deemed to invalidate any action taken by the Planning Board in connection with the granting of such approval. The Planning Board shall render a decision on the site plan application within 62 days after said hearing, and the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy thereof mailed to the applicant. Planning Board disapproval shall include written findings upon any site plan element found contrary to the provisions or intent of this chapter. In reviewing the application, the Planning Board may secure the advice or assistance of one or more expert consultants as qualified to advise whether a proposed use will conform to the requirements of this chapter. The assistance of a consultant, if sought, must be obtained within 10 days of the receipt of the application.



TOWN OF OSSINING
BUILDING & PLANNING DEPARTMENT

101 ROUTE 9A, P.O. BOX 1166

OSSINING, N. Y. 10562

PHONE: (914) 762-8419 EFAX: (914) 290-4656

Website: www.townofossining.com Email: bldgdept@townofossining.com

September 10, 2024

512 North Inc.
512 North State Road
Briarcliff Manor, NY 10510

Re: Site Plan, 512 North State Road

Dear Abel,

After review of your original site plan, it has come the attention of the Building Department that there are several Pine Trees and Rhododendron plants that have not been planted in your landscape design. Please review your existing site plan and provide a supplemental landscape plan to bring the site into compliance. You must increase the plantings in the buffer areas between the rear and side property lines as much as possible.

New site plan applications require a 30-foot buffer between residential and non-residential uses. However, this site plan predates and therefore must be brought into full compliance with the original.

Please note chapter 200-50 (3) of the Ossining Town Code:

Landscaping and screening. All playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight inches in diameter measured three feet above the base of the trunk shall be retained to the maximum extent possible.

A copy of your site plan and previous Order to Remedy dated February 26, 2024 is enclosed. You must provide a plan on or before September 30, 2024.

Sincerely,

Jon Turnquist
Building Inspector

Enclosures



TOWN OF OSSINING BUILDING DEPARTMENT

No. 1643

OSSINING OPERATIONS CENTER

101 ROUTE 9A — 2ND FLOOR

P.O. BOX 1166

OSSINING, NY 10562

(914) 762-8419 Fax (914) 944-0195

Date: 2/26 2024

NOTICE OF AND ORDER TO REMEDY VIOLATION

To: S12 NORTH INC
S12 NORTH STATE ROAD
BRIARCLIFF MANOR, NY 10510
(ABEL MAGANA) 914-629-8096

You are in Violation of: ☒ Town of Ossining Code of Ordinances
☐ New York State Building & Fire Code
☐ Other: _____

Property Location: S12 NORTH STATE ROAD

shown on the Tax Map as: Section 90.19 Plate _____ Block 2 Lot 15

YOU ARE IN VIOLATION OF:

ZOO-5 APPROVAL OF STEPLAN
A.
(3) LANDSCAPING AND SCREENING

(4) LIGHTING

This violation must be corrected immediately. Failure to remedy the conditions and to comply with the applicable provisions of the Law may constitute an offense punishable by fine or imprisonment or both.

Re-inspection Date: 3/26 2024

[Signature]
Building Inspector



TOWN OF OSSINING BUILDING DEPARTMENT

No. 1673

OSSINING OPERATIONS CENTER

101 ROUTE 9A — 2ND FLOOR

P.O. Box 1166

OSSINING, NY 10562

(914) 762-8419 Fax (914) 944-0195

Date: 11/18 2024

NOTICE OF AND ORDER TO REMEDY VIOLATION

To: 512 NORTH NC
512 NORTH STATE ROAD
BRIARCLIFF MANOR, NY 10510

You are in Violation of:

☒ Town of Ossining Code of Ordinances
☐ New York State Building & Fire Code
☐ Other: _____

Property Location: 512 NORTH STATE ROAD

shown on the Tax Map as: Section 9.14 Plate _____ Block 2 Lot 15

YOU ARE IN VIOLATION OF:

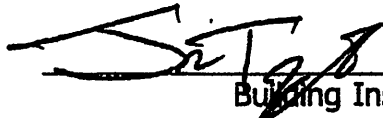
200-50 APPROVAL OF SITE PLANS
FILE REVISED SITE PLAN OR RETURN
SITE TO ORIGINAL DESIGN

200-41 CERTIFICATE OF OCCUPANCY

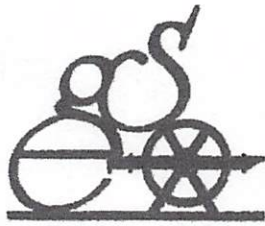
(B) ... SITE PLAN APPROVAL BY PLANNING
BOARD,

This violation must be corrected immediately. Failure to remedy the conditions and to comply with the applicable provisions of the Law may constitute an offense punishable by fine or imprisonment or both.

Re-inspection Date: 12/18/ 2024



Building Inspector



Gabriel E. Senor, P.C.

Engineers Planners Surveyors

90 N Central Park Avenue

Hartsdale, NY 10530

Tel: (914) 422-0070

E-Mail: info@gesenor.com

February 7, 2025

Clifford L. Davis, Esq.
200 Mamaroneck Avenue
Suite 602
White Plains, NY 10601

Re: Site Inspection and Review of Site Plans
512 Bistro at 512 North State Road
Briarcliff Manor, NY 10510
Town of Ossining

Dear Mr. Davis:

In review of the Site Plan for the Briar's Restaurant, dated August 16, 2007, and now known as 512 Bistro, the parking lot curb at the closest point to the land of RoseMarie Miller at 2 Blue Lantern Rd. was 10 feet. The curb line varied from 10 feet to over 20 feet from the property line. This site plan, approved under a Planning Board resolution on August 22, 2007, also included the installation of the following screening for the adjacent property at 2 Blue Lantern Road:

- 10 - 20' high white pines
- 7 - 8' high white pines
- 8' high stockade fence

There is no lighting proposed on this approved plan.

Upon a recent site inspection, the following current conditions are noted at the site:

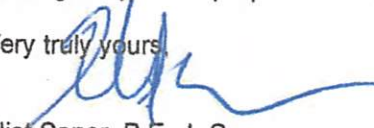
- Parking lot is as close as 5 feet to the property line
- All screening vegetation is removed
- A new curb and lighting have been installed
- Parking lot striping does not conform to the approved site plan
- Parking space dimensions and aisle widths do not conform to any standard

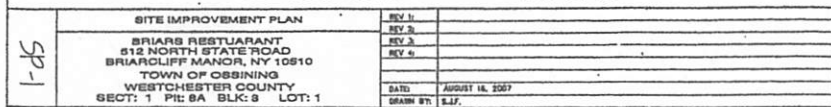
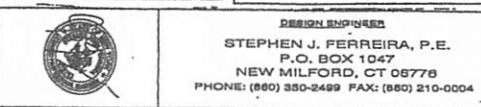
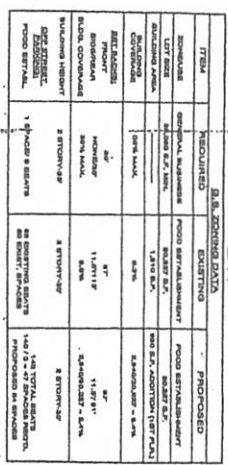
In review of the new plan submitted by DeMasi Architects, dated January 15, 2025, the existing conditions are not reflected. A current survey should be submitted. The plan proposes planting of 23 arborvitae 10 feet high and spaced 6 feet apart. This is insufficient as screening to the neighboring property. The original approval was for screening 20 feet high, these are only half as tall.

Additionally, the type of arborvitae is not specified. A green giant arborvitae has a pyramid shape and a spread of 12-15 feet. The current parking configuration does not provide sufficient space between the fence and the curb for these plants to grow.

Emerald green arborvitae is a better choice because they grow narrow in shape and only have a 3-4-foot spread. The arborvitae should be installed with the foliage touching the adjacent tree and should be installed at a minimum of 15 feet high to provide proper screening.

Very truly yours,


Eliot Senor, P.E., L.S.



Chapter 200. Zoning

Article III. Use Regulations

§ 200-18. GB General Business District.

[Amended 9-16-1969 by Ord. No. 73; 7-13-1971 by Ord. No. 77; 6-19-1973 by Ord. No. 79; 3-10-1981 by Ord. No. 106; 3-22-1983 by Ord. No. 111; 3-9-1993 by L.L. No. 3-1993; 2-25-1997 by L.L. No. 1-1997; 1-27-1998 by L.L. No. 1-1998; 8-12-2003 by L.L. No. 3-2003; 11-9-2005 by L.L. No. 6-2005; 4-12-2011 by L.L. No. 3-2011]

In a GB General Business District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following, and all such uses shall be subject to site plan approval in accordance with § 200-50 hereof.

A. Permitted uses.

- (1) Retail stores and shops, and fully enclosed storage, warehouse and assembly activities which also have a substantial retail component, but excluding:
 - (a) Construction material supply yards, lumber yards, or construction equipment sales or rental establishments servicing contractors or the construction industry.
 - (b) The sale of bulk or loose materials such as, but not limited to gravel, mulch, sand, soil, etc.
- (2) Personal service establishments.
- (3) Eating and drinking establishments, excluding fast food establishments, and provided that no live entertainment or live music is supplied or dancing permitted, unless a cabaret license has been issued by the Town Board in accordance with Chapter 68 of the Town Code.
- (4) Business, professional and governmental offices, and banks.
- (5) Public utility structures.
- (6) Theaters (except drive-ins), bowling alleys and other commercial recreation facilities conducted within a fully enclosed building.
- (7) Clubs and fraternal lodges.
- (8) Funeral homes.
- (9) Buildings and uses owned and operated by the Town.
- (10) Child-care and elder-care facilities.
- (11) Galleries, museums, performing arts centers, and other cultural facilities or institutions.
- (12) Spas.
- (13) Dance studios or other instructional facilities.

(14) Indoor recreational facilities.

(15) Fully enclosed animal hospitals.

(16) Private preschools and elementary schools.

(17) Dog or cat day and overnight care, provided that there are no outdoor areas on the lot for said animals unless the lot abuts or is directly across the street from an existing dog or cat care establishment with outdoor facilities, in which case the proposed use may have outdoor facilities but not to include the outdoor housing of said animals or the keeping of them outside for extended periods or overnight.

(18) ^[1] Multiple dwellings and row or attached dwellings, subject to the following provisions:
[Added 7-22-2014 by L.L. No. 2-2014]

(a) The project shall meet the provisions of §§ **200-16A(2), (3) and (4)** and **200-22** of this chapter relating to the Multifamily District, except that the Planning Board shall have the authority to modify the requirements of § **200-16A(2), (3) and (4)** and the lot width, lot depth, yard, usable open space and building coverage requirements of § **200-22**, in the interest of sound planning and design, and where the health, safety and welfare is preserved or enhanced, as determined by said Board.

(b) The lot on which the dwellings are proposed shall be at least 20,000 square feet in size.

(c) The lot on which the dwellings are proposed shall not be adjacent to or across the street from any lot on which exists the housing of dogs as a principal use.

(d) The lot on which the dwellings are proposed, and the dwellings themselves, shall not contain any other principal use.

(e) On-site parking for the dwellings shall be provided in accordance with § **200-29A** of this chapter. In addition, the Planning Board shall ensure that sufficient on-site visitor parking is provided. This determination by the Planning Board shall take into consideration whether the parking spaces are individually assigned to the respective dwellings, are common to the dwellings, or are a combination thereof. Further, if determined appropriate by the Planning Board, on-site accessory recreation facilities shall be provided with their own on-site parking.

(f) On-site landscaping and screening, as deemed appropriate by the Planning Board, shall be provided.

(g) Notwithstanding § **200-22** of this chapter, the minimum size of the respective dwelling units shall be as follows:

[1] Studio and efficiency dwellings: 450 square feet.

[2] One-bedroom dwellings: 675 square feet.

[3] Two-bedroom dwellings: 750 square feet.

[4] Three-bedroom dwellings: 1,000 square feet.

[5] Four-bedroom dwellings: 1,200 square feet.

[1] *Editor's Note: Former Subsection A(18), regarding self-storage facilities and related business offices, was repealed 10-3-2017 by L.L. No. 6-2017. This local law also redesignated former Subsection A(19) and (20) as Subsection A(18) and (19), respectively.*

(19) Mixed use, as defined in this chapter, subject to the following provisions:
[Added 7-22-2014 by L.L. No. 2-2014]

(a) The lot on which the mixed use is proposed shall be at least 20,000 square feet in size.

- (b) The lot on which the mixed use is proposed shall not be adjacent to or across the street from any lot on which exists the housing of dogs as a principal use.
 - (c) The minimum size of the respective dwelling units shall be as follows:
 - [1] Studio and efficiency dwellings: 450 square feet.
 - [2] One-bedroom dwellings: 675 square feet.
 - [3] Two-bedroom dwellings: 750 square feet.
 - [4] Three-bedroom dwellings: 1,000 square feet.
 - [5] Four-bedroom dwellings: 1,200 square feet.
 - (d) Mixed use shall be permitted only in buildings which conform to the New York State Residential Code for the proposed mixed use.
 - (e) The residential and nonresidential uses in a mixed-use building shall have separate means of access (this is, the entrance/exit for residential use shall not be through the nonresidential use of the building, and vice versa), except that the Planning Board may, at its discretion, approve the use of a common lobby or plaza.
 - (f) The nonresidential and residential uses of the building shall each be provided with the number of parking spaces required by § 200-29A herein.
 - (g) General on-site landscaping and screening, as deemed appropriate by the Planning Board, shall be provided. Further, all utility, storage, service and parking areas on the site of the mixed-use building shall be specifically screened by means of landscaping and/or fencing, to the extent deemed necessary and practical by the Planning Board, in order to minimize the impact of these areas upon the residential use of the building and upon the surrounding area.
 - (h) Dwelling units shall not be permitted in buildings housing animal hospitals; day-care facilities; restaurants; bowling alleys or other commercial recreational facilities; or any other use deemed by the Planning Board to be incompatible with a residential use in the building.
 - (i) There shall be no outdoor storage associated with the residential use.
 - (j) Dwelling units shall not be permitted in basement or cellar space.
- (20) Assisted living facilities on lots of at least one acre in size.
[Added 12-22-2015 by L.L. No. 12-2015]
- B. Conditional uses permitted upon approval by the Planning Board in accordance with Article XI hereof. The following conditional uses are permitted subject to approval by the Planning Board in accordance with § 200-49 hereof. These uses are subject to the requirements specified herein and elsewhere in this chapter, including site plan approval in accordance with § 200-50 hereof.
[Amended 7-22-2014 by L.L. No. 2-2014]
- (1) Tier 3 solar energy systems, subject to § 200-31.3.
[Added 12-18-2018 by L.L. No. 1-2019]
 - (2) Tier 2 battery energy storage systems, subject to § 200-31.4.
[Added 1-26-2021 by L.L. No. 2-2021]
- C. Accessory uses.
- (1) Off-street parking and loading spaces, subject to the requirements in § 200-29A(1) and B, excluding the outdoor parking of construction equipment.

- (2) Accessory signs advertising only activities conducted on the lot are permitted, provided that they do not exceed two feet in height nor 25% of the length of the building. Such signs shall be attached to the wall of the building and shall not project more than 15 inches beyond the face of such wall. Signs projecting above the roof or beyond the side walls are prohibited.
- (3) Freestanding signs advertising only activities conducted on the lot; however, no such sign shall exceed 20 square feet in area on each side and 10 feet in height from the ground level to the top of the sign, and no part of said sign shall extend over the lot or street line.
- (4) Tier 1 solar energy systems, subject to § 200-31.3.
[Added 12-18-2018 by L.L. No. 1-2019]
- (5) Tier 2 solar energy systems, subject to § 200-31.3.
[Added 12-18-2018 by L.L. No. 1-2019]
- (6) Tier 1 battery energy storage systems, subject to § 200-31.4.
[Added 1-26-2021 by L.L. No. 2-2021]

D. Setback and screening requirements for nonresidential uses that are contiguous to residentially used lots or residentially zoned lots.
[Amended 10-3-2017 by L.L. No. 6-2017]

- (1) All nonresidential buildings and structures shall be set back at least 30 feet from the lot lines of a contiguous residentially used lot or residentially zoned lot.
- (2) Between any nonresidential use and a residentially used lot or residentially zoned lot, a buffer area at least 20 feet wide with native, noninvasive landscape screening shall be provided. Such plantings shall be a mix of evergreen shrubs, and coniferous and deciduous tree species. Said coniferous trees shall have an initial height of at least six feet, said deciduous trees shall have a minimum caliper of four inches as measured 12 inches above finished grade, and said trees shall have an expected ultimate height which suits their intended purpose and shall be planted close enough to form a visual barrier. At the sole discretion of the approval authority, a six-foot-high wall or fence, suitable in appearance to the surrounding area, may be substituted for or be required to supplement the landscape plantings as a visual barrier for the residential property from the nonresidential use. Proper maintenance of all fencing and landscape plantings shall be a continuing requirement. All such vegetation shall be maintained in a healthy and vigorous growing condition; all vegetation not so maintained shall be replaced with new comparable vegetation at the beginning of the next growing season. All fences shall be installed with the more attractive side facing neighboring properties.
- (3) Driveways for any nonresidential use shall be located at least 20 feet from a residentially used lot or residentially zoned lot.
- (4) Parking areas for any nonresidential use shall be located at least 20 feet from a residentially used lot or residentially zoned lot. Such parking areas shall be screened from adjoining lots with a mix of native, noninvasive evergreen shrubs, and coniferous and deciduous tree species. Said coniferous trees shall have an initial height of at least six feet, said deciduous trees shall have a minimum caliper of four inches as measured 12 inches above finished grade, and said trees shall have an expected ultimate height which suits their intended purpose and shall be planted close enough to form a visual barrier. At the sole discretion of the approval authority, a six-foot-high wall or fence, suitable in appearance to the surrounding area, may be substituted for or be required to supplement the landscape plantings as a visual barrier for the residential property from the nonresidential use. Proper maintenance of landscaping shall be a continuing requirement. All such vegetation shall be maintained in a healthy and vigorous growing condition; all vegetation not so maintained shall be replaced with new comparable vegetation at the beginning of the next growing season. All fences shall be installed with the more attractive side facing neighboring properties.

54 134



Outlook

Fw: 512 North State Road Before Trees were Removed and Trimmed and Parking Lot Paved

From MillerRoRo@aol.com <millerroro@aol.com>

Date Thu 6/19/2025 1:58 PM

To Clifford Davis <cdavis@clifforddavis.com>

[Sent from the all new AOL app for iOS](#)

Begin forwarded message:

On Tuesday, November 12, 2024, 5:50 PM, MillerRoRo@aol.com <millerroro@aol.com> wrote:

Cliff,

These are pictures of how the setback and screening was before the trees were removed and trimmed and before the new fence, lighting and parking lot was installed. We could barely see or hear anything from the restaurant before and now we see and hear everything.

RoseMarie Miller

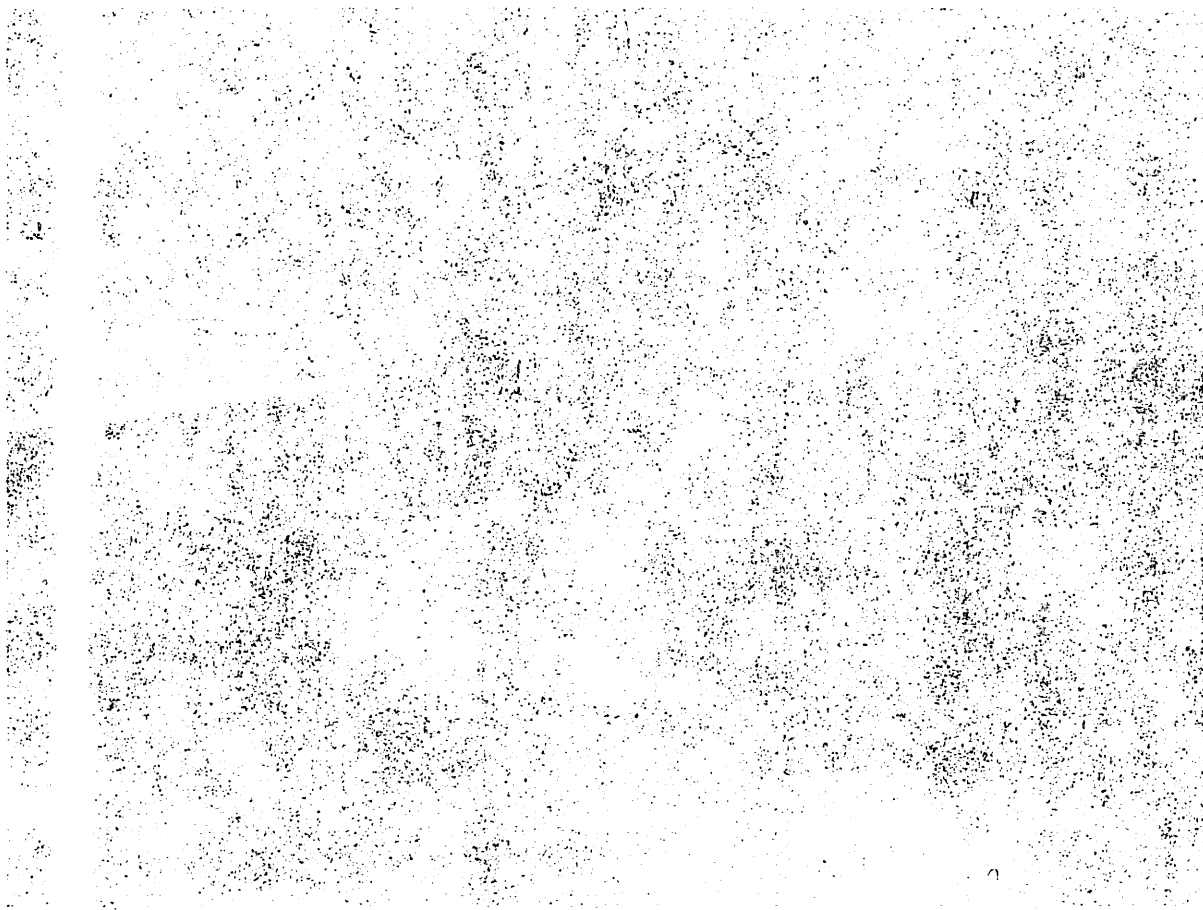
2 Blue Lantern Road
Briarcliff Manor, NY 10510

Cell: 914-320-3779









[Sent from the all new AOL app for iOS](#)

Fw: 512 North State Road After Trees were Removed and Trimmed and Parking Lot Paved

From MillerRoRo@aol.com <millerroro@aol.com>

Date Tue 9/9/2025 2:26 PM

To Clifford Davis <cdavis@clifforddavis.com>

----- Forwarded Message -----

From: MillerRoRo@aol.com <millerroro@aol.com>

To: Clifford Davis <cdavis@clifforddavis.com>; Eliot Senor <eliot@gesenor.com>

Sent: Tuesday, November 12, 2024 at 06:33:20 PM EST

Subject: 512 North State Road After Trees were Removed and Trimmed and Parking Lot Paved

Cliff,

These are pictures taken after the parking lot was paved last November plus one picture of three trees that were just planted this fall. The required setback was changed between the fence and the parking lot in areas along the fence, more parking spots were added, too many trees were removed, lower branches of existing trees were trimmed too much, a new fence was installed with a door over the grate to a drain to the brook and additional lighting was added where trees were to be planted on the existing site plan.

RoseMarie Miller

2 Blue Lantern Road
Briarcliff Manor, NY 10510

Cell: 914-320-3779













[Sent from the all new AOL app for iOS](#)