

Village of Fayetteville
ZONING BOARD OF APPEALS
Mark Colvin, Chairperson
Telephone: (315) 637-9864 Fax: (315) 637-0106
425 East Genesee Street
Fayetteville, NY 13066

ZONING BOARD of APPEALS
(Please fill out the application completely)

Tax Map Number of Property:
009.-04-19.1

Zoning District of Property:
I & R-1

Date Filed: 10/21/2019

Application Fee: _____

Applicant: Millstone Development Group LLC (Devin DalPos) **Telephone:** 518-306-6747

Co-Applicant: _____

Applicant's Address: 125 High Rock Ave, Saratoga Springs, NY **Email:** devindalpos@msn.com

Owner of Property: Foubu Environmental Services LLC **Telephone:** _____

Property Address: 547 Genesee Street (NYS Route 5)

Denied by Codes Enforcement on: _____

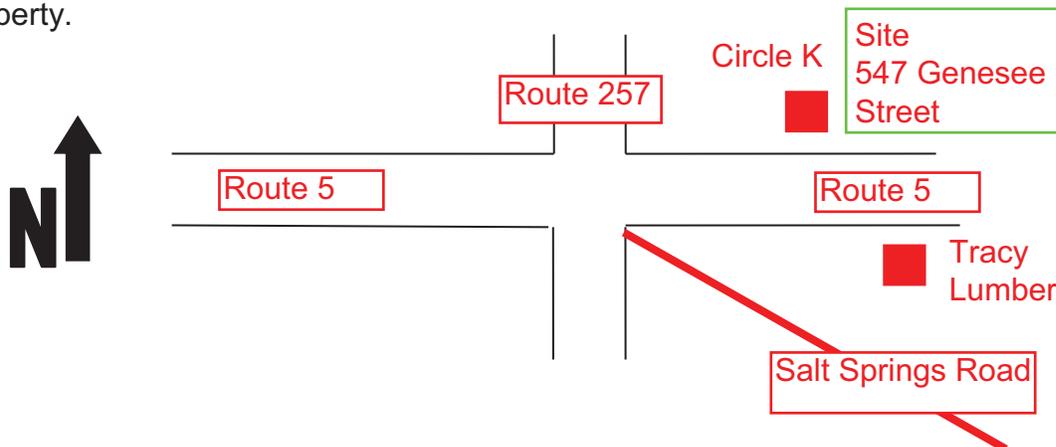
When did the Planning Board review the application? _____

Planning Board's recommendation or determination: _____

If the property is located within the historic district, when did the Historic Preservation Commission (HPC) review the application? N/A

HPC's recommendation or determination: N/A

The Zoning Board members routinely visit each site. In order to assist them in finding your property, please locate **BELOW** the property with cross street names, and provide any other features which might assist the Board in identifying the property. If the land is vacant, please designate distances from cross streets in feet or tenths of a mile, or stake the frontage of the property.



Eff. 2018

Size of Parcel: 32.92 ac Width 380 ft Depth 1300'-1500' Total Area _____ Shape irregular

Current Use of the Property:

vacant industrial building

Is the property located within 500 feet of: (Please check one.)

YES NO

- A boundary line of the Village of Fayetteville? (X) ()
- An existing or proposed County, State, or Highway Road? (X) ()
- An existing or proposed County, State Park, or Recreation Area? () (X)
- Right of way or County owned or used stream or drainage channel? (X) ()
- County or State owned lands with public building? () (X)
- Is the property located within a flood plain or floodway? (X) ()

Appeal is made herewith for:

- () Interpretation of the Zoning Ordinance or Zoning Map
- (X) Variance from the **AREA** restrictions of the Zoning Ordinance (See page 3.)
- () Variance from the **USE** restrictions of the Zoning Ordinance (See page 4.)
- () Other – Appeal

The applicant requests a variance from the following Section(s) of the Code, granting the following relief:

Code Section (Title, Article)	Subject	Permitted	Proposed	Extent of Relief Requested
<u>187-54</u>	<u>I- Max Bldg Size</u>	<u>10,000 SF</u>	<u>56k and 36k SF</u>	<u>46k and 26k SF</u>
<u>187-54</u>	<u>R-1 lot width</u>	<u>75'</u>	<u>0'</u>	<u>75'</u>
_____	_____	_____	_____	_____

Description of Proposed Use:

Proposed 56,550 square foot supermarket and 36,000 square foot senior memory care facility in the industrial (I) zone and residential units within the residential (R-1) zone

Proposed Hours of Operation:

Mon 24 Tues 24 Wed 24 Thur 24 Fri 24 Sat 24 Sun 24

Expected Peak Hours:

Weekday 10-11 AM Weekday Evening 6-7 PM Weekend Day 10-11 AM Weekend Evening 4-5 PM

Eff. 2018

Expected Parking Needs: +/- 360 parking spaces for all commercial uses _____

Expected Exterior Storage: N/A _____

Description of any proposed interior improvements: all new construction _____

Description of drainage flows and controls: Stormwater mitigation will flow similar to existing conditions with stormwater management facilities as per NYSDEC requirements. _____

Full description of any proposed exterior improvements: all new construction _____

Existing/Proposed Signage: To be determined _____

AREA VARIANCE: The questions below are the criteria for which an area variance request is determined. **See attached letter**

- 1) Will there be an undesirable change in the character of the neighborhood or a detriment to nearby properties?
- 2) Can the applicant achieve the benefit by some method, feasible for the applicant to pursue, other than an area variance?
- 3) Is the area variance request substantial?
- 4) Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?
- 5) Was the alleged difficulty self-created?

The above-stated questions will be discussed and evaluated by the Zoning Board of Appeals. Please state the basis for your variance request and attach that statement to this application.

USE VARIANCE: If the applicant requests to use the subject property for purposes which are not allowed or are prohibited by the Village of Fayetteville Codes, the applicant must demonstrate unnecessary hardship. In order to prove unnecessary hardship, the applicant must submit evidence demonstrating this:

- 1) The applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
- 2) The alleged hardship relating to the property is unique, and does not apply to a substantial portion of the district or neighborhood;
- 3) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- 4) That the alleged hardship has not been self-created.

Please state the basis for your appeal and attach that statement to this application.

DISCLOSURE OF INTEREST

Pursuant to Section 809 of the General Municipal Law and Section 99-36 of the Code, every applicant for an area variance must certify the name, residence, and the nature and extent of the interest of any officer or employee of the State of New York, the Village of Fayetteville, the Town of Manlius, or the County of Onondaga, in the person, partnership, corporation, or association making such an application to the extent known to such applicant. The names, residences, and nature and extent of interest of all such public officers or employees are:

Please list any professionals who will be assisting you with your presentation at the public hearing:

<u>Name</u>	<u>Company</u>	<u>Profession</u>	<u>Telephone#</u>
Matt Napierala	Napierala Consulting	Engineer	315-682-5580
Paul Curtin	Curtin Law Firm	Attorney	315-815-4221
_____	_____	_____	_____

Eff. 2018

***ATTENTION APPLICANTS: YOU OR PERSON(S) ACTING ON YOUR BEHALF MUST ATTEND THE SCHEDULED PUBLIC HEARING IN ORDER FOR YOUR APPLICATION TO BE REVIEWED.**

Print Name of Property Owner: Foubu Environmental Services LLC

Signature of Property Owner: *Josh M. Mcnelly* Date: 10/21/19

Print Name of Property Owner: _____

Signature of Property Owner: _____ Date: _____

State of New York

County Saratoga }

Devin A. DalPos being duly sworn, deposes and says that s/he is the person who has signed this application; that s/he is the Applicant, authorized by the said owner to make and file this application; that s/he has read and understands this application; that all statements contained therein are true to the best of his/her knowledge and belief; and the work will be performed in accordance with the application and the plans and specifications filed therewith.

X *Devin A. DalPos*
X

Signature(s) of Applicant

Sworn to before me this 21 day of October 2019

Notary Public Danielle Poulton Reeder

County Saratoga

DANIELLE POULTON REEDER
Notary Public - State of New York
No. 01P06374669
Qualified in Saratoga County
My Comm. Expires Apr. 30, 2022

Danielle Poulton Reeder

******* OFFICIAL USE ONLY *******

Received by: _____ Date: _____

	APPROVED	DENIED	DATE
Codes Enforcement Review:	_____	_____	_____
Planning Board Review:	_____	_____	_____
Zoning Board of Appeals:	_____	_____	_____
Condition(s) made part of approval:	_____		

Zoning Board of Appeals

Area Variance Five Criteria Responses:

The applicant is seeking three variances:

- 187-54 Industrial Zone Maximum Building Size: Request for 56,550 SF Grocery Store where 10,000 SF is allowed.
- 187-54 Industrial Zone Maximum Building Size: Request for 36,000 SF Memory Care / Assisted Living Facility where 10,000 SF is allowed.
- 187-54 R-1 Residential Zone Lot Width (interpreted as public road frontage): Request for Zero (0) public road frontage where 75 feet are required.

1. Will there be an undesirable change in the character of the neighborhood or a detriment to nearby properties?

No, there will not be an undesirable change or detriment to the area. This project is a vast improvement of the existing vacant industrial use building. The two new large buildings are smaller than the existing building, the front and side yard setbacks are greater and the proposed building aesthetics will be much more appealing than the existing metal sided industrial building. This project will offer the nearby community additional services and blend in with a village-type atmosphere.

There will be no change in character as a result of allowing the lot width area variance at the R-1 Zone.

2. Can the applicant achieve the benefit by some method, feasible for the applicant to pursue, other than an area variance?

Regarding the request to exceed the maximum building size of 10,000 sf, the existing industrial building is over 137,000 square feet. There is no feasible way to achieve the similar benefit this project will provide without exceeding the 10,000 sf maximum building size. A community-based grocery store requires over 10,000 sf to provide proper grocery service with the various variety and departments (bakery, canned goods, dairy, drinks, meats, produce, seafood, etc). By today's standard, a 56,500 sf grocery store is a small store. For example, the Tops at COR plaza is approximately 64,000 sf, the Price Chopper on Erie Blvd is approximately 67,000 sf and Wegmans in DeWitt is approximately 146,000 sf.

The proposed memory care facility is proposed at 36,000 sf. This area is required for the facility based on a efficiency model for the number of patients verses staffing versus care. The building configuration and area are based on providing the most efficient and best care for the patients. A smaller size is not feasible for this use.

The lot width (interpreted as road frontage by village codes) of 75 feet is not obtainable as the public road is over 800 feet from the R-1 zone line. The residential zoned parcel will have access / egress easement rights through the privately maintain road system. It does not make sense to turn over 800 feet of roadway to the village to operate and maintain when it is more efficient for the development components to own and maintain this road way.



3. Is the area variance substantial?

No, the variance is not substantial. In comparison, the existing building on the property is approximately 137,000 square feet in size. The proposed grocery store is 56,550 square feet, the proposed memory care facility is 36,000 square feet and the outparcel building is 3,500 square feet for a total of 96,000 square feet of commercial building space in the industrial zone. This is a reduction of approximately 30% of floor area compared to existing conditions.

The residential variance is not substantial either as it is an existing non-conforming zone being brought up to code by the variance.

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

No, there will not be any adverse effect on the physical or environmental condition in the neighborhood. The uses being proposed are allowable uses in the industrial district. The proposed buildings will be set back away from the road and provide/maintain existing buffers along the side and rear property lines.

The area variance for R-1 lot width will not have an adverse affect as the R-1 will have access through the private road system.

5. Was the alleged difficulty self-created?

No, the difficulty was not self-created. The Village of Fayetteville revised their code to limit buildings greater than 10,000 square feet in order to discourage big box retail stores from being constructed. While the uses being proposed are greater than 10,000 square-feet, which is critical for the services they provide, they are not of the same scale nor will they have the same impacts as a big box retailer.

The residential area is not self-created as the lot is currently split-zoned without legal frontage and will continue the same way with the exception of a legal access easement to Route 5.

Respectfully submitted,

NAPIERALA CONSULTING
Professional Engineer, P.C.

Matthew Napierala, P.E.
President/Managing Engineer