



Building & Zoning Dept.
 41 City Hall Place
 Plattsburgh, New York 12901
 Ph: 518-563-7707
 Fax: 518-563-6426

X USE CLASS A VARIANCE AREA CLASS B VARIANCE SUP SPECIAL USE PERMIT

Date: November 18, 2021 Appeal No.: 2305

An application is hereby made to the Zoning Board of Appeals pursuant to the City of Plattsburgh Zoning Ordinance for a variance to allow the property use as herein described.

Applicant: Pivcox, Inc.

Applicant's Address: 99 Boynton Avenue
 Plattsburgh, N.Y. 12901

Telephone No.: (518) 572-0200

Parcel Identification: 207.11-7-2

Location of Request: 99 Boynton Avenue, Plattsburgh, New York.

Property Owner: Pivcox, Inc.

Request Description: Applicant wants to rent office space
 and small area to safe Tow.

Zoning District: R-2

Section Appealed: Section 270-8

Previous Appeal: No.: N/A. Date:

Identify Applicant's Right to Apply for Variance:

Ownership: X Long Term Lease: Contract To Purchase:

Other (Please Explain):

Applications for Zoning Variances must be accompanied by:
 13 copies of existing and proposed site plan
 13 copies of existing and proposed floor plan

The Zoning Board of Appeals may impose reasonable conditions and restrictions on the grant of area and use variances provided they are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Howard Pivofsky
 Signature (Owner/Applicant)
 Howard Pivofsky - Vice Pres.
 Print First and Last Name Pivcox, Inc.
 October 26, 2021

Thomas M. Murnane
 Notary Public
 Thomas M. Murnane
 Notary Public, State of New York
 No. 4904132
 Qualified in Clinton County
 Commission Expires August 10, 20 25



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November 19, 2021

HAND-DELIVERED

Zoning Board of Appeals
City of Plattsburgh
41 City Hall Place
Plattsburgh, NY 12901

Re: Pircox, Inc.
99 Boynton Avenue, Plattsburgh, New York
Use Variance Application

Susanna S. Piller (Retired)

Dear Sirs/Madams:

Please be advised that this firm represents Pircox, Inc. with respect to the attached Use Variance Application for its property located at 99 Boynton Avenue in the City of Plattsburgh.

The subject property measures 1.9 acres and is more particularly shown on the tax map attached hereto as Exhibit "A". I also attach hereto as Exhibit "B" a copy of the deed for the Pircox, Inc. property dated January 24, 2012.

The subject property is located in a R2 (General Residential) Zone.

We currently propose that a small portion of the building and property be used by a towing service (Tow Safe) for a small office and to store temporarily a maximum of five (5) vehicles behind the building. This use will not be inconsistent with the current and/or prior uses at this property. The towing service plans to use the small space at the northwest corner of the building as their office. This space is rather small (16' x 16') and there is adequate parking in front of the office space for any office personnel.

The only use currently on the property is the Ashley Furniture Outlet Store. That store occupies approximately 95% of the structure located on the property.

In addition, there is a significant amount of open space behind the building on the property. The subject property has been used as the Ashley Furniture Outlet Store since 2012 and prior to that use the property was used as a construction office and yard by Murnane Enterprises since the early 1970s. During the period of time that the

Ronald B. Stafford
(1935-2005)



property was used by Murnane Enterprises, the area behind the building on the subject property was used as a storage yard for construction equipment and construction materials.

Please note that we acknowledge that there are certain standards that must be met in order for a Use Variance to be approved by the Zoning Board of Appeals.

1. Lack of Reasonable Return: In an R2 zone, most of the permitted uses are residential in nature. In addition, in said R2 zone, churches, schools, public parks, professional offices, and hotel/motels are also permitted uses.

We contend that it is clear that the subject property is unique and it would be difficult to obtain a reasonable return for any permitted uses mentioned above.

As noted above, the building is a pre-existing structure that has been present since at least the 1960s. The 16' x 16' office space, mentioned above, has been present since the 1960s and has, at times, been used separately from the primary businesses.

The rent to be obtained from the proposed new use will offset some of the costs and expenses associated with the primary business and the property (i.e., taxes, maintenance, insurance, etc.).

In our opinion, this proposed use is ideal since it will provide an additional revenue source for the primary business and will not affect the character of the neighborhood. The proposed use will fill a space that has been vacant and an area in back that is unused.

In addition, since 2012, Pircox, Inc. has paid for the maintenance as well as the taxes, insurance and other costs associated with the subject property. I enclose herewith as Exhibit "C" a letter from Dan Fordham, CPA for Pircox, Inc., which confirms the expenses associated with the subject property. We contend, the above constitutes financial evidence of a lack of reasonable return and hardship.

2. Uniqueness: As noted above, the subject property is located in an R2 zone. The subject property has been used for a construction office and yard and for a furniture outlet store since the early 1970s. Prior to that time, the building was used for other commercial purposes. The building



itself and the subject property is clearly unique as the building has existed since the 1960s.

We contend that there is no dispute that the property is unique.

3. Essential Character of the Neighborhood: We contend that the proposed use will not change the essential character of the neighborhood. As noted above the towing service plans to only keep a maximum of five (5) cars at the subject property which will be located in the rear of the building and out of sight. A small office that will be used by the towing service at the front of the building and same will not change the appearance of the property. The area behind the building, where the cars will be located, is gated and fenced.

As noted above, this property has been used for commercial purposes for over 50 years and that use is not changing. I would also point out that there are other commercial uses in the area which includes Lake Champlain Pools, the VFW, and other professional offices located westerly on Boynton Avenue. We would also point out that immediately west of the subject property is Melissa Penfield Park.

We contend that it is clear that this new use will not change the essential character of the neighborhood.

4. Self-Created Hardship: We contend that it is also clear that the alleged hardship in this matter has not been self-created. Pircox, Inc. has owned the subject property since 2012. They have maintained their outlet store on the property since that date. The proposed new use of the subject property has only recently been presented to the owner of the subject property.

We maintain that said use is reasonable and will not impact the character of the neighborhood. There is no self-created hardship.

Accordingly, we respectfully request that the Zoning Board of Appeals consider the application of Pircox, Inc. and approve same based upon the above.

I also enclose a Letter of Representation as Exhibit "D" authorizing the undersigned to appear and represent the interests in Pircox, Inc. in this aApplication.



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If you should have any questions or comments with respect to this letter, please do not hesitate to contact the undersigned.

Thank you for your kind consideration. I remain

Very truly yours,

**STAFFORD, OWENS, PILLER, MURNANE,
KELLEHER & TROMBLEY, PLLC**

By:

Thomas M. Murnane, Esq.

TMM/kmm
Enclosure
cc: Pircox, Inc.

Use Variances Standards

The state statutes defined a use variance as: "the authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulation.
General City Law, 81-b(1)

The state statutes then go on to provide the zoning board with the standards for granting the use variance:

(b) No such use variance shall be granted by the zoning board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(1) the applicant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by competent financial evidence;

(2) That the alleged hardship to the property in question is unique, and does not apply to a substantial portion of the district of neighborhood;

(3) that the requested use variance, if granted, will not alter the essential character of the neighborhood;

(4) that the alleged hardship has not been self created.

The board of appeals, in granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community."

General City Law, 81-b(3)

USE VARIANCE CRITERIA

No such use variance shall be granted by the zoning board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused an "Unnecessary Hardship." In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

Please give a written response to the following criteria;

- (1) You must prove a lack of reasonable return. Please provide competent financial evidence which proves a lack of reasonable return.

See attached.

- (2) Please demonstrate why your hardship is unique to your property and does not apply to a substantial portion of the neighborhood.

See attached.

- (3) Please show that granting this use variance will not change the essential character of the neighborhood.

See attached.

- (4) Please demonstrate why the alleged hardship has not been self-created

See attached.

ZONING BOARD OF APPEALS

CITY HALL

PLATTSBURGH, NEW YORK 12801

STANDARDS OF PROOF - USE VARIANCE: "UNNECESSARY HARDSHIP STANDARD"

For an applicant to be entitled to a Use Variance, he must satisfy the "unnecessary hardship standard". The courts of New York hold that, to satisfy this standard, the applicant must establish by competent proof the following:

1. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone.
2. The use to be authorized by the variance will not alter the essential character of the locality.
3. The hardship is unique as to this parcel and is not general throughout the zoning district.

A. REASONABLE RETURN: As to proof of "no reasonable return", the New York Court of Appeals held in the case of Crossroads Recreation v. Broz 4 N.Y. 2d 39 - that the issue of "reasonable return" cannot be satisfied except by a showing of dollars and cents proof in which the following is established by competent evidence:

1. The amount paid for the land in question.
2. Its present market value.
3. Annual maintenance expenses.
4. Annual land taxes and school taxes.
5. The unpaid balance of mortgages and other encumbrances.
6. The annual income from the land in question for each and every use permitted in this Zoning District.
7. Proof that this actual or estimated return for each permitted use is not reasonable under the circumstances.
8. If the subject premises are the subject of a contract of purchase contingent upon the grant of a use variance, then the applicant must establish the fair market value of the property independent of the purchase price, because in the absence of such proof, it will be presumed that the purchase price included a premium over fair market price at the time of purchase in expectation of favorable zoning relief. Professional Park v. Town of Bedford, 60 N.Y. 2d 492 (1983).

Whether any of the permitted uses would generate a reasonable return requires proof from which can be determined the rate of return earned by similar or like property in the community requires proof in dollars and cents from the owners investment in the property as well as the return that the property will produce from the various uses permissible under the existing classification.

The burden of proof is always on the applicant on the issue of establishing unnecessary hardship. This does not, however, bar the municipality from going forward with proof to the contrary because as the Court of Appeals said in Professional Park v Town of Bedford:

"When the proponent presents proof sufficient to permit the trier of fact to decide in his or her favor, the opponent must counter that proof or risk an adverse determination. Only in that general sense can it be said that there is no obligation on the municipality to go forward with the proof."

ZONING BOARD OF APPEALS

CITY HALL

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"Unnecessary Hardship Standard"

Proof of present market value and annual income can be best established through the testimony of an expert witness. Where more than one use is permitted in the zoning district, the applicant must prove the projected annual income from each and every permitted use, and must prove that this annual return is not reasonable as compared to the returner by like property in the community.

If, on the basis of this dollars and cents proof, the ZBA determines that no reasonable return can be derived from any of the permitted uses, then the applicant has proven the first part of the unnecessary hardship standard.

B. ESSENTIAL CHARACTER: In addition, the applicant must prove by competent evidence that the proposed use will not alter the essential character of the neighborhood.

C. UNIQUENESS: The applicant must prove that the hardship is not so general throughout the zoning district as to require the conclusion that if all parcels similarly situated were granted variances, the zoning of the district would be materially changed. In other words, if the hardship is common throughout the area, then perhaps legislative action by the Town Board in the nature of a zone change or zoning ordinance amendment may be in order.

If the ZBA determines that the applicant has not furnished competent evidence meeting and satisfying both of the above standards, then the ZBA must deny the use variance.

D. OTHER FACTORS TO BE CONSIDERED BY ZBA:

SELF-CREATED HARDSHIP: If the hardship complained of is self-imposed, then the variance will be denied. The cases hold that a party who knowingly acquires land for a use prohibited by the Zoning Ordinance creates his own hardship. Even if he did not actually learn of the prohibition at the time of the purchase he is nevertheless chargeable with knowing the restrictions on use.

PERSONAL PROBLEMS: Is the plight of the owner due to personal problems as opposed to use of the land or buildings. If personal problems, then the use variance must be denied.

ZONING BOARD OF APPEALS

CITY HALL

PLATTSBURGH, NEW YORK 12901

TO: All Applicants for Zoning Variance or Special Use Permit

SUBJECT: Required information for filing application

The Zoning Ordinance stipulates that the Building Inspector determine that all submittals for a Variance or Special Use Permit have adequate information (in form and content - Section 270-54A) for review by the Zoning Board of Appeals. In order to insure such information is consistently provided with each application the following information shall be required with each application:

1. Existing Site Plan - showing to scale the property lines, principal buildings, accessory structures, rights-of-ways as may exist and other improvements (city street and facilities abutting the site, driveways, parking areas, drainage structures, fence, etc.). Where the application is a request for the reduction of any yard setback the existing site plan shall be a survey of the property as prepared by a Licensed Land Surveyor and shall show the location of buildings on the abutting property where the yard reduction is proposed.
2. Proposed Site Plan - showing clearly to scale what is proposed to be constructed (and removed) under this application. The proposed improvement (s) shall be shaded, colored or contrasted in an acceptable manner to make them easily discernible. Adequately dimension the proposed improvements and indicate the setbacks as applicable.
3. Area and Bulk Calculations - Calculations of the lot area, lot dimensions, building area (existing/proposed), lot coverage, open space, all yard setbacks, dwelling unit density, building(s) height, parking required shall be submitted in tabulated form to show existing, proposed and required.
4. Building Plans - Submit schematic building plans to scale showing the existing/proposed building layout and identify clearly the existing/proposed use of all building spaces. Include elevation view(s) of proposed construction as applicable.
5. Area Location Map - showing all properties on each side of the street and noting the existing occupancy for each such lot on all four sides of the site. A copy of the tax map of the area marked to show the occupancy shall be sufficient for this information.

No application will be accepted after this date unless it contains all of the above information (11 sets). No application will be accepted for the agenda until all such appropriate information has first been filed with this office for a review and determination of zoning compliance/noncompliance (and such a determination has been issued to the applicant in writing).

Variances

One of the basic powers given by law to a zoning board of appeals is called the "variance" power. The board has the authority to "vary," or modify, the strict letter of a zoning ordinance or local law in cases where this strict interpretation could cause practical difficulties or unnecessary hardships for an individual.

Appeals boards are frequently confronted with requests for variances. There are two types of request that come before the board, and the standards by which they are judged differ. A use variance is a request to utilize property for a use or activity which is not permitted by the zoning ordinance, and the applicant must demonstrate "unnecessary hardship." An area variance is a request for relief from dimensional standards contained in the zoning ordinance, and it requires a demonstration of "practical difficulty."

The basic standards for determining unnecessary hardship and practical difficulty have been established and refined by the courts in numerous cases.

Use Variance

An individual who wants to utilize property for a use that is not permitted by the zoning ordinance must apply for a use variance. An applicant for a use variance must demonstrate unnecessary hardship by satisfying each of the following three tests:

1. Uniqueness

The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone AND that these features make it impossible to earn a reasonable return without some adjustment. If the features or conditions are generally applicable throughout the district, a variance should not be granted. In those situations where the difficulty is shared by others, the relief should be accomplished by an amendment to the zoning ordinance, not a variance.

2. Reasonable Return

The applicant must demonstrate an inability to realize a reasonable return under any of the uses permitted by the zoning ordinance. There must be a "dollars and cents" proof of the applicant's inability to realize reasonable return; speculation or qualitative assessment is inadequate.² Failure to realize the highest return is not considered a hardship.

3. Character

The applicant must prove that the requested modification will not change the character or quality of the neighborhood. In addition, the "spirit" of the ordinance or local law should be preserved.

The applicant for a use variance must meet all three tests before the appeals board may grant relief. A use variance should not be granted if the "unnecessary hardship" was created by the applicant. If the appeals board grants a use variance to an applicant who has failed to meet each of the tests, it runs the risk of assuming the function of the legislative body and making a decision contrary to the legislative intent of the zoning ordinance.

An increasing number of use variance requests is often the sign of an "aged" zoning regulation. The appeals board should not circumvent the legislative process by granting use variances. Instead, the appeals board should advise the governing body of the need to reexamine and amend the zoning ordinance.

Area Variance

In the case of an area variance, the applicant is seeking modification of dimensional standards, such as yard requirements, set-back lines, lot coverage, frontage requirements or density regulations, so that the property may be utilized for one of the uses permitted by the zoning ordinance. The appeals board may grant relief if the applicant can demonstrate that strict compliance with the regulations would cause practical difficulty.

The determination of practical difficulty is a three-step process.³

1. First, the applicant must demonstrate that the application of the zoning ordinance to his property causes significant economic injury.
2. Once the applicant has demonstrated economic injury, then the municipality must show that the regulation in question is reasonably related to a legitimate exercise of the police power.
3. Last, assuming the municipality has met its burden of proof, the applicant must demonstrate that the restrictions, as strictly applied in his case, are unrelated to the public health, safety or welfare of the community and that granting the variance will not adversely affect the community.

In making a determination of practical difficulty, the appeals board may consider:⁴

1. How substantial the variation is in relation to the requirement;
2. The potential effect of increased density on available municipal, county and state facilities and services;
3. Whether the variance will cause a substantial change in the character of the neighborhood;
4. Whether the difficulty can feasibly be mitigated by some other method; or
5. Whether the interests of justice will be served in granting the variance.

The appeals board should grant the minimum relief necessary to allow reasonable use of the land in question. Not every applicant for an area variance is automatically entitled to receive relief. Each application should be carefully considered against the requirement for proof of practical difficulty.

Summary

The major difference between a use variance and an area variance involves the use of the property. An area variance results in a modification of physical restrictions so that an allowable use may be established on the property. By contrast, a use variance permits the establishment of a use which is prohibited by the zoning ordinance and the zoning map. It is for this reason that the standards for a use variance are more stringent than the standards established for an area variance.

Frequently, the appeals board is encouraged to make legislative decisions under the guise of use variance requests. The appeals board should exercise caution when confronted with a request for a use variance, and only grant those which meet the tests established for determining unnecessary hardship. The appeals board should resist the inclination to correct deficiencies in the zoning ordinance through the exercise of its variance power. If particular provisions of the zoning ordinance are inappropriate or unjust, the appeals board should recommend that the legislative body (City Council, Town Board, Board of Trustees) take the necessary steps to amend the ordinance or local law.

¹Otto v. Steinhilber, 282 NY 71 (1939), Village of Bronxville v. Francis, 150 NYS 2d 906 (1956); Jayne Estates v. Raynor, 22 NY 2d 417 (1968); Douglaston Civic Association, Inc. v. Klein, 51 NY 2d 963 (1980).

²Fayetteville v. Jarrold, 53 NY 2d 254 (1981).

³Fulling v. Palumbo, 21 NY 2d 30 (1967); National Merrit, Inc. v. Werst, 41 NY 2d 438 (1977).

⁴Waschsberger v. Michalis, 19 Misc 2d 909 (1959).

Department of Planning



Note:

This Tech Memo was prepared by the
publication for municipal governments.

Department of Planning as an information
It is not intended to be a legal opinion.

**Full Environmental Assessment Form
Part 1 - Project and Setting**

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. 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; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Pircox, Inc.		
Project Location (describe, and attach a general location map): 99 Boynton Avenue, Plattsburgh, N.Y. 12901		
Brief Description of Proposed Action (include purpose or need): 		
Name of Applicant/Sponsor: Pircox, Inc.		Telephone:
		E-Mail:
Address: 99 Boynton Avenue		
City/PO: Plattsburgh	State: New York	Zip Code: 12901
Project Contact (if not same as sponsor; give name and title/role): Thomas M. Murnane, Esq.		Telephone:
		E-Mail:
Address: One Cumberland Avenue		
City/PO: Plattsburgh	State: New York	Zip Code: 12901
Property Owner (if not same as sponsor):		Telephone: (518) 561-4400
		E-Mail: tmurnane@staffordowens.com
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Planning Board or Commission		
c. City, Town or <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Village Zoning Board of Appeals		
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? Yes No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? Yes No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? Yes No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) Yes No

If Yes, identify the plan(s):

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? Yes No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
 If Yes, what is the zoning classification(s) including any applicable overlay district?
R-2

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No
 If Yes,
 i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Plattsburgh City School District

b. What police or other public protection forces serve the project site?
City of Plattsburgh Police Dept.

c. Which fire protection and emergency medical services serve the project site?
City of Plattsburgh Fire Dept.

d. What parks serve the project site?
N/A

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?
Commercial

b. a. Total acreage of the site of the proposed action? 1.9 acres
 b. Total acreage to be physically disturbed? N/A acres
 c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 1.9 acres

c. Is the proposed action an expansion of an existing project or use? Yes No
 i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
 If Yes,
 i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) _____
 ii. Is a cluster/conservation layout proposed? Yes No
 iii. Number of lots proposed? _____
 iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? Yes No
 i. If No, anticipated period of construction: _____ months
 ii. If Yes:
 • Total number of phases anticipated _____
 • Anticipated commencement date of phase I (including demolition) _____ month _____ year
 • Anticipated completion date of final phase _____ month _____ year
 • Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	_____	_____	_____	_____
At completion	_____	_____	_____	_____
of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,

i. Total number of structures _____

ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length

iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No
 If Yes,

i. Purpose of the impoundment: _____

ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: _____

iii. If other than water, identify the type of impounded/contained liquids and their source. _____

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres

v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? Yes No
 (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
 If Yes:

i. What is the purpose of the excavation or dredging? _____

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____

iv. Will there be onsite dewatering or processing of excavated materials? Yes No
 If yes, describe. _____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? Yes No

ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? Yes No
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description). _____

ii. Describe how the proposed action would affect that waterbody or wetland. e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No

If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____

• proposed method of plant removal: _____

• if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? Yes No

If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No

If Yes:

• Name of district or service area: _____

• Does the existing public water supply have capacity to serve the proposal? Yes No

• Is the project site in the existing district? Yes No

• Is expansion of the district needed? Yes No

• Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project? Yes No

If Yes:

• Describe extensions or capacity expansions proposed to serve this project: _____

• Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No

If, Yes:

• Applicant/sponsor for new district: _____

• Date application submitted or anticipated: _____

• Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No

If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No

If Yes:

• Name of wastewater treatment plant to be used: _____

• Name of district: _____

• Does the existing wastewater treatment plant have capacity to serve the project? Yes No

• Is the project site in the existing district? Yes No

• Is expansion of the district needed? Yes No

Yes No
 Yes No
 If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No
 If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? Yes No
 If Yes:

- How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or _____ acres (impervious surface)
 _____ Square feet or _____ acres (parcel size)
- Describe types of new point sources. _____
- Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

 - If to surface waters, identify receiving water bodies or wetlands: _____

Will stormwater runoff flow to adjacent properties? Yes No
 iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? Yes No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? Yes No
 If Yes, identify:

- Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

- Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

- Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? Yes No
 If Yes:

- Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No
- In addition to emissions as calculated in the application, the project will generate:
 - _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
 - _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
 - _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
 - _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
 - _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
 - _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? Yes No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? Yes No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? Yes No

If Yes:

i. When is the peak traffic expected (Check all that apply): Morning Evening Weekend
 Randomly between hours of _____ to _____

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? Yes No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site? Yes No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? Yes No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? Yes No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? Yes No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____

iii. Will the proposed action require a new, or an upgrade, to an existing substation? Yes No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations:

- Monday - Friday: 9 AM. - 3 P.M.
- Saturday: _____
- Sunday: _____
- Holidays: _____

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? Yes No

If yes:

i. Provide details including sources, time of day and duration:

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? Yes No

Describe: _____

n. Will the proposed action have outdoor lighting? Yes No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Yes No

Describe: _____

o. Does the proposed action have the potential to produce odors for more than one hour per day? Yes No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? Yes No

If Yes:

i. Product(s) to be stored _____

ii. Volume(s) _____ per unit time _____ (c.g., month, year)

iii. Generally, describe the proposed storage facilities: _____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? Yes No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? Yes No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? Yes No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: _____
- Operation: _____

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: _____
- Operation: _____

s. Does the proposed action include construction or modification of a solid waste management facility? Yes No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? Yes No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? Yes No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

Urban Industrial Commercial Residential (suburban) Rural (non-farm)

Forest Agriculture Aquatic Other (specify): Park / School

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	1.9	1.9	0
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation? Yes No
 i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
 If Yes:
 i. Identify Facilities:
Melissa Penfield Park
Bailey Avenue School.

e. Does the project site contain an existing dam? Yes No
 If Yes:
 i. Dimensions of the dam and impoundment:
 • Dam height: _____ feet
 • Dam length: _____ feet
 • Surface area: _____ acres
 • Volume impounded: _____ gallons OR acre-feet
 ii. Dam's existing hazard classification: _____
 iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
 If Yes:
 i. Has the facility been formally closed? Yes No
 • If yes, cite sources/documentation: _____
 ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____
 iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
 If Yes:
 i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
 If Yes:
 i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes - Spills Incidents database Provide DEC ID number(s): _____
 Yes - Environmental Site Remediation database Provide DEC ID number(s): _____
 Neither database
 ii. If site has been subject of RCRA corrective activities, describe control measures: _____
 iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
 If yes, provide DEC ID number(s): _____
 iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? Unknown feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site: Topsoil 10 %
Gravel / Pavement 90 %

d. What is the average depth to the water table on the project site? Average: _____ feet Unknown

e. Drainage status of project site soils: Well Drained: _____ % of site
 Moderately Well Drained: _____ % of site
 Poorly Drained: _____ % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: 0 % of site
 10-15%: _____ % of site
 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No

If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100-year Floodplain? Yes No

k. Is the project site in the 500-year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:
 i. Name of aquifer: _____

m. Identify the predominant wildlife species that occupy or use the project site: Gray Squirrels

n. Does the project site contain a designated significant natural community? Yes No
 If Yes:
 i. Describe the habitat/community (composition, function, and basis for designation): _____
 ii. Source(s) of description or evaluation: _____
 iii. Extent of community/habitat:
 • Currently: _____ acres
 • Following completion of project as proposed: _____ acres
 • Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? Yes No
 If Yes:
 i. Species and listing (endangered or threatened): _____

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? Yes No
 If Yes:
 i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? Yes No
 If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? Yes No
 If Yes, provide county plus district name/number: _____

b. Are agricultural lands consisting of highly productive soils present? Yes No
 i. If Yes: acreage(s) on project site? _____
 ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? Yes No
 If Yes:
 i. Nature of the natural landmark: Biological Community Geological Feature
 ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? Yes No
 If Yes:
 i. CEA name: _____
 ii. Basis for designation: _____
 iii. Designating agency and date: _____

e. 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? Yes No
 If Yes:
 i. Nature of historic/archaeological resource: Archaeological Site Historic Building or District
 ii. Name: _____
 iii. Brief description of attributes on which listing is based: _____

f. 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? Yes No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? Yes No
 If Yes:
 i. Describe possible resource(s): _____
 ii. Basis for identification: _____

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? Yes No
 If Yes:
 i. Identify resource: _____
 ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____
 iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? Yes No
 If Yes:
 i. Identify the name of the river and its designation: _____
 ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? Yes No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Howard Pivovskiy Date October 26, 2021

Signature  Title Vice President - Pivovox, Inc

PRINT FORM

Exhibit A

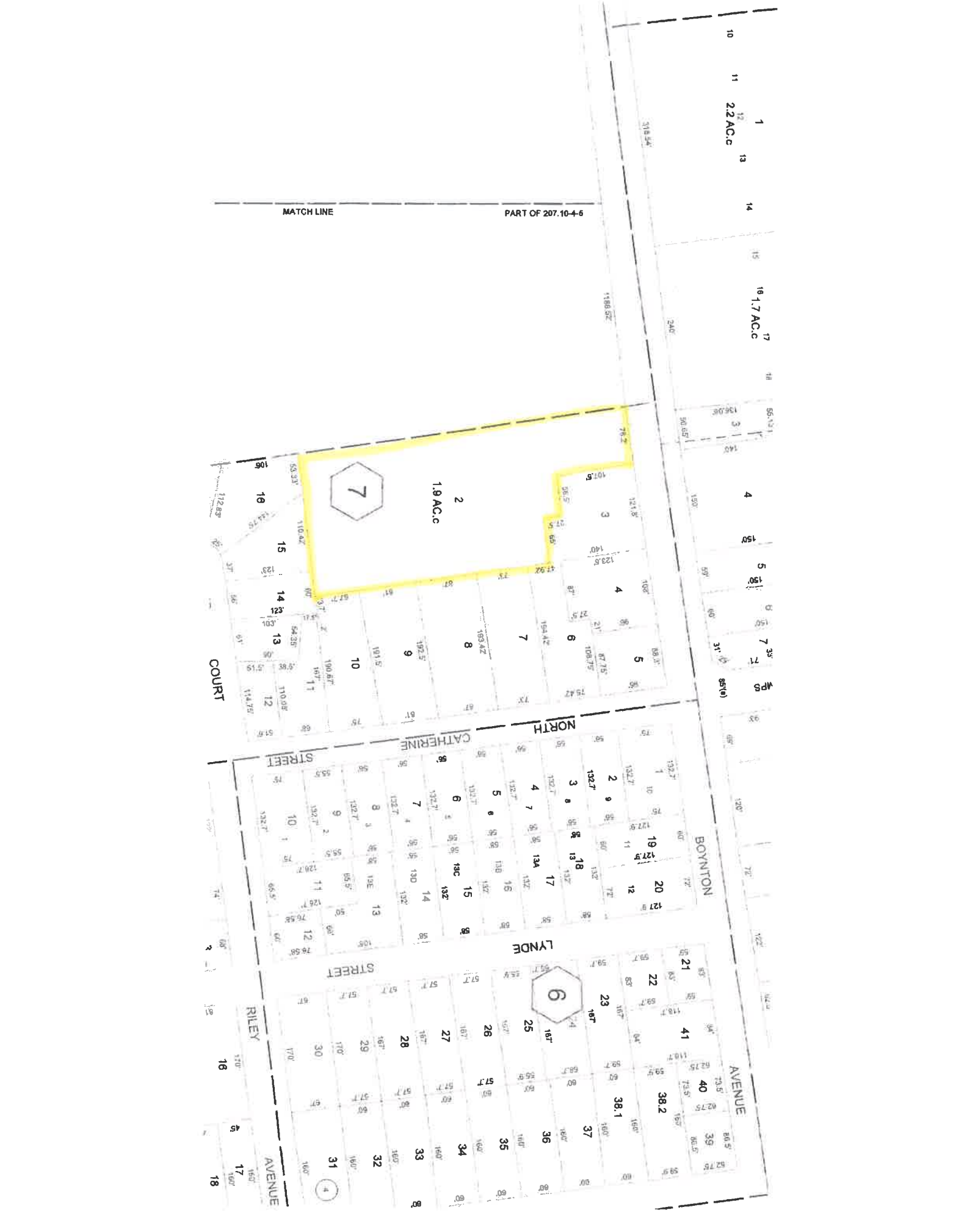


Exhibit B



John H. Zurlo, County Clerk
137 Margaret St
Ste 101
Plattsburgh, NY 12901-2966
(518) 565-4700

WJF

Clinton County Clerk Recording Cover Sheet

Received From :
CLINTON ABSTRACT

Return To :
PIROX INC
84 MARGARET STREET
PLATTSBURGH, NY 12901

First 1ST PARTY(---OR)
MURNAE ENTERPRISES

First 2ND PARTY(--EE)
PIROX INC

Instr Number : 2012-00245657

Index Type : Land Records
Type of Transaction : Deed - (Other Property)
Recording Fee : \$330.00
Recording Pages : 7

The Property affected by this instrument is situated in Plattsburgh (City), in the County of Clinton, New York

Real Estate Transfer Tax	
RETT # :	1116
Deed Amount :	\$300,000.00
RETT Amount :	\$1,200.00
Total Fees :	\$1,530.00

State of New York
County of Clinton
I hereby certify that the within and foregoing was recorded in the Clerk's office for Clinton County, New York
On (Recorded Date) : 01/26/2012
At (Recorded Time) : 3:35:26 PM



Doc ID - 004108850007

John H. Zurlo
JOHN H. ZURLO, County Clerk



207.11-7-2

This sheet constitutes the Clerks endorsement required by Section 319 of Real Property Law of the State of New York

Entered By: SUE Printed On : 01/26/2012 At : 3:35:44PM

This Indenture,

Made the 24th day of January, Two Thousand and Twelve

Between

***MURNANE ENTERPRISES, with a business address of 104
Sharron Avenue, Plattsburgh, New York 12901,***

party of the first part, and

***PIRCOX, INC., with a business address of 84 Margaret Street,
Plattsburgh, New York 12901,***

party of the second part

*Witnesseth that the party of the first part, in consideration of-----
-----ONE and 00/100---Dollars----- (\$1.00)----- lawful money of
the United States, paid by the party of the second part, does hereby grant and
release unto the party of the second part, its heirs and assigns forever,*

*ALL THAT CERTAIN PIECE OR PARCEL OF LAND, situate, lying and
being in the City of Plattsburgh, County of Clinton, and State of New York, being
more particularly described on SCHEDULE "A" attached hereto and made a part
hereof.*

SCHEDULE A

PARCEL I

ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate, lying and being in the City of Plattsburgh, Clinton County, New York, bounded and described as follows:

BEGINNING at a steel bar driven in the ground at the northeast corner of the Clinton County Agricultural Society Lot in the south bounds of Boynton Avenue, so-called, running thence easterly in the supposedly south bounds of Boynton Avenue two hundred feet (200') to a steel bar driven in the ground; thence southerly one hundred forty feet (140') in a line parallel to said Clinton County Agricultural Society Lot to an iron pipe driven in the ground; thence westerly two hundred feet (200') parallel with said Boynton Avenue to a steel bar driven in the ground in the east bounds of said Clinton County Agricultural Society Lot; thence north one hundred forty feet (140') to the place of beginning.

The above described premises being the same premises conveyed by Grover C. Oliver and Kathryn J. Oliver, his wife, to John D. Fairchild and Silas S. Baker as tenants in common, by deed dated February 1, 1936 and recorded in the Clinton County Clerk's Office in Volume 178 of Deeds at Page 393.

EXCEPTING AND RESERVING HOWEVER, from Parcel I above described, a right of way for ingress and egress for all purposes, including pedestrians and vehicles of every name and nature, over a strip of land ten feet (10') wide easterly and westerly on the extreme westerly side of premises hereinabove described, to the lot adjacent to and southerly of the premises hereinabove described, which latter lot was conveyed by Grover C. Oliver and Kathryn J. Oliver, his wife, to John D. Fairchild and Silas S. Baker as tenants in common, by deed dated February 1, 1936 and recorded in the Clinton County Clerk's Office on February 3, 1936 in Volume 178 of Deeds at Page 394, to which deed reference is hereby made for a more accurate description.

ALSO EXCEPTING AND RESERVING HOWEVER, from Parcel I above described, all that certain piece or parcel of land, situate, lying and being on the southerly side of Boynton Avenue in the City of Plattsburgh, New York, and being a part of the "first parcel" of lands deeded to the Baker-Fairchild Lumber Co., Inc. by deed dated April 2, 1937, and which said deed was duly recorded in the Clinton County Clerk's Office in Volume 185 of Deeds at Page 378, beginning at an iron pipe driven into the ground in the southerly boundary line of Boynton Avenue, City of Plattsburgh, New York, which said point is the northwest corner of lands owned or supposed to be owned by one Grover C. Oliver, and which said iron pipe and point is seven and one-half feet (7 ½') southerly from the southerly edge of the cement sidewalk as now in place (1948); running from said point westerly and approximately parallel with the southerly edge of said cement sidewalk, above referred to, one hundred twenty-one and eight-tenths feet (121.8') to an iron pipe driven into the ground, which said pipe and point are seven and one-half feet (7 ½') southerly from the southerly edge of the aforesaid sidewalk, thence turning and running southerly in a line approximately parallel with the westerly boundary line of the aforesaid Grover C. Oliver property a distance of one

hundred seven and five-tenths feet (107.5') to an iron pipe driven into the ground; thence turning and running approximately easterly a distance of about fifty-six and five-tenths feet (56.5') to an iron pipe driven into the ground; thence turning and running southerly in a line approximately parallel with the westerly boundary line of the aforesaid Grover C. Oliver property a distance of twenty-seven and five-tenths feet (27.5') to an iron pipe driven into the ground; thence turning and running easterly in a line approximately parallel with the southerly edge of the aforesaid cement sidewalk a distance of sixty-five feet (65') to an iron pipe driven into the ground, which said point and pipe are in the westerly boundary line of the aforesaid Grover C. Oliver property, so-called; thence turning and running northerly in the westerly boundary line of the aforesaid Grover C. Oliver property a distance of one hundred forty feet (140') to the point or place of beginning. The parcel of land herein excepted being approximately L-shaped. Also, excepting and reserving a right of way over a strip of land one hundred seven and five-tenths feet (107.5') deep (east and west sides) and eighteen feet (18') wide (north and south sides), which said strip of land is directly west of and adjacent to the parcel of land herein excepted, said right of way to be maintained at the sole expense of the Baker-Fairchild Lumber Co., Inc., its successors and assigns. The premises and right of way herein excepted being the same premises as that conveyed by Baker-Fairchild Lumber Co., Inc. by Silas S. Baker, President, to Edward G. Rouleau and Emma F. Rouleau, his wife, as tenants by the entirety, by deed dated October 27, 1948 and recorded in the Clinton County Clerk's Office on October 27, 1948 in Volume 267 of Deeds at Page 347.

PARCEL II

ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate, lying and being in the City of Plattsburgh, County of Clinton, State of New York, bounded and described as follows:

BEGINNING at a steel bar driven in the ground one hundred forty feet (140') south of the northeast corner of the Clinton County Agricultural Society Lot in the south bounds of Boynton Avenue, so-called, running thence easterly two hundred feet (200') in a line parallel with Boynton Avenue to a steel bar driven into the ground; thence southerly two hundred seventy-nine feet (279') in a line parallel with said Clinton County Agricultural Society Lot to a steel bar driven into the ground; thence westerly two hundred feet (200') in a line parallel to said Boynton Avenue to a steel bar driven into the ground in the east bounds of said Clinton County Agricultural Society Lot; thence northerly two hundred seventy-nine feet (279') in the east bounds of said Clinton County Agricultural Society Lot to the place of beginning. The above described premises being a part of the premises conveyed by Jean Elizabeth Mooers to Grover C. Oliver and Kathryn J. Oliver, his wife, by deed dated June 12, 1924 and recorded in the Clinton County Clerk's Office in Volume 142 of Deeds at Page 290, together with a right of way for ingress and egress for the benefit of Parcel II herein above described for pedestrians and vehicles of every name and nature of a strip of land ten feet (10') wide easterly and westerly and situate on the extreme westerly side of a parcel of land lying adjacent and northerly of the premises hereinabove described

(Parcel II), which said parcel was conveyed by Grover C. Oliver and Kathryn J. Oliver, his wife, by separate deed to John D. Fairchild and Silas S. Baker, as tenants in common on February 1, 1936. Said right of way herein described being for the purposes of providing facilities for proper ingress and egress from Parcel II hereinabove described to Boynton Avenue. Also, excepting and reserving from Parcel II hereinabove described, a covenant running with said Parcel II that said premises shall not be used for any business purpose which by reason of odors, noise, or otherwise shall constitute a nuisance or disturbance to any of the premises, or persons located therein, owned by the grantors herein in the vicinity of the premises hereby conveyed. However, it is expressly agreed that said premises may be used as a lumber yard, general building supply business and residential purposes, and that the gasoline and oil business as now conducted on said premises may be continued thereon.

BEING the same premises conveyed by Joseph B. Shay to James L. Mumane and Janet C. Mumane, his wife, by deed dated April 7, 1971 and recorded in the Clinton County Clerk's Office on April 7, 1971 in Volume 537 of Deeds at Page 539.

FURTHER, ALL THAT PIECE OR PARCEL OF LAND situate, lying and being in the City of Plattsburgh, Clinton County, New York, conveyed by Grover C. Oliver as Grantor, to Joseph B. Shay, as Grantee by deed dated August 29, 1969 and recorded in the Clinton County Clerk's Office in Volume 521 of Deeds at Page 723, wherein said premises were described as follows:

"All that parcel of land lying southerly of, and adjoining, premises conveyed by Grover C. Oliver and Kathryn J. Oliver, his wife, to John D. Fairchild and Silas S. Baker, by deed recorded in Volume 178 of Deeds at Page 384 in the Clinton County Clerk's Office, described as follows: Beginning at the southeasterly corner of the said parcel above described and running thence in a southerly direction along the westerly line of a lot or lots which front on North Catherine Street, a distance of 55 feet, more or less; thence turning and running in a westerly direction along the northerly line of lots which front on Kathryn Court which are now owned or occupied by Laravie, Bush and Reid, a distance of 200 feet, more or less, to a point in the easterly bounds of the lands of the Plattsburgh City School District; thence turning and running northerly along the City School District line a distance of 50 feet more or less, to the southwesterly corner of the parcel first above-mentioned; thence turning and running easterly a distance of 200 feet, more or less, to the point and place of beginning.

Intending hereby to convey all of the lands remaining in the ownership of the party of the first part which lies southerly of the said lot first above described between its easterly and westerly lines as extended.

Being a part of the same premises conveyed by Jean Elizabeth Mooers to Grover C. Oliver and Kathryn J. Oliver, his wife, by deed dated June 12, 1924 and recorded in the Clinton County Clerk's Office in Volume 142 of Deeds at Page 290.

The said Kathryn J. Oliver died in the City of Lake Worth, State of Florida on December 31, 1945, a resident of the City of Plattsburgh, Clinton County, New York, leaving her surviving spouse, Grover C. Oliver."

BEING the same premises conveyed by Joseph B. Shay to James L. Murnane and Janet C. Murnane, his wife, by deed dated April 15, 1974 and recorded in the Clinton County Clerk's Office on April 15, 1974 in Liber 564 of Deed at Page 1097.

BEING the same premises conveyed by James L. Murnane, Jr. and Janet C. Murnane, his wife, to Murnane Enterprises by deed dated November 26, 1990 and recorded in the Clinton County Clerk's Office on December 31, 1990 in Volume 813 of Deeds at Page 155.

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, its heirs and assigns forever.

And said party of the first part covenant as follows:

First, That the party of the second part shall quietly enjoy the said premises;

Second, That said party of the first part will forever Warrant the title to said premises.

Third, That, in Compliance with Sec. 13 of the Lien Law, the grantor 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.

In Witness Whereof, the party of the first part have hereunto set its hand and seal the day and year first above written.

In Presence of



MURNANE ENTERPRISES

By: 
DARCY M. MOUSSEAU
Partier

State of New York)
) ss.:
County of Clinton)

On the 24th day of January, in the year 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared DARCY M. MOUSSEAU personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Signature of Notary Public

Thomas M. Murnane
Notary Public, State of New York
No. 4904132
Qualified in Clinton County
Commission Expires August 10, 2012

Exhibit C

November 18, 2021

Thomas Murnane, Esq.
Stafford, Owens, Murnane, Kelleher & Trombley, PLLC
1 Cumberland Ave.
Plattsburgh, NY 12901

Re: Pircox, Inc. (99 Boynton Ave.)

Dear Tom:

We have been provided accounting and tax services to Pircox, Inc. and it's related company Wilixa, LLC for the past several years.

Pircox, Inc. owns the building in question on Boynton Ave. in Plattsburgh as well as 84 Margaret St. also in Plattsburgh.

Pircox, Inc. has a mortgage on the property and incurs a monthly mortgage payment of \$2,203.49 (\$26,441.88 annually) as well as pays City and School taxes of approximately \$10,000 per year. Additionally there are other costs such as insurance, snow plowing and repairs and maintenance on the building and property.

If you have any questions please feel free to contact me.

Sincerely,



Daniel M. Fordham, CPA

Exhibit D



STAFFORD • OWENS

PILLER • MURNANE • KELLEHER & TROMBLEY, PLLC

Attorneys & Counselors at Law

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Brendan P. Owens
Meghan E. Zedick

October 26, 2021

Zoning Board of Appeals
City of Plattsburgh
41 City Hall Place
Plattsburgh, NY 12901

Re: Pircox, Inc.
99 Boynton Avenue, Plattsburgh, New York
Use Variance Application

Maxwell C. Radley

Dear Sir/Madam:

I, Howard Pirofsky, *Vice President* of Pircox, Inc., hereby authorize Thomas M. Murnane, Esq. to represent Pircox, Inc. with respect to the Use Variance Application before the City of Plattsburgh.

Dated: October 26, 2021


Howard Pirofsky

Ronald B. Stafford
(1935-2005)