Amended May 11, 2020

BOROUGH OF WESTWOOD

Office of Construction and Zoning

TELEPHONE (201) 664-5900 • FAX (201) 664-7570 • 101 WASHINGTON AVENUE • WESTWOOD, NJ 07675

1. APPLICANT INFORMATION

Name: 459 Broadway Realty, LLC

Mailing Address: 63 Watchung Boulevard, Watchung, New Jersey 07069

Daytime Telephone: (201) 434-3100 E-mail: gerryklaw@gmail.com

Applicant is a: (check applicable status)
____ Corporation ____ Partnership ____ Individual (s) X Other NJ Limited Liability Company
(please specify)

Relationship of applicant to property (check applicable status):
X Owner ____ Contract purchaser ____ Lessee ____ Other _____
(please specify)

If applicant is represented by an attorney:

Attorney's Name: Robert J. Mancinelli, Esq.

Mailing Address: 1 Paragon Drive, Suite 240, Montvale, New Jersey 07645

Telephone: (201) 802-9202 E-mail: rmancinelli@mfmclaw.com

2. SUBJECT PROPERTY INFORMATION

Subject Property Owner's Name: 459 Broadway Realty, LLC

Westwood Street address of the subject property: 459 Broadway

Tax Map Block(s): 807 Lot (s): 4 Zone District: CBD

3. NATURE OF APPLICATION:

Applicant seeks preliminary and final site plan approval; use variance; and variance approval from Section 195-132(B)(4) for expansion of a non-conforming structure, Section 195-162 for parking, Section 195-109, Schedule A, for rear yard, building coverage and impervious coverage; and any other variance, waiver or other relief, if necessary, from the requirements of the Westwood Zoning Code.

4. Project Description:

The Applicant proposes to renovate the existing building's exterior and interior; replace the existing back portion of the building and add a 438 sf addition; install a 604 sf concrete patio, 423 sf concrete walks, and 147 sf landings & steps.

5. Relief Requested:

Ordinance	Section Item	Required	Proposed
195-132(B)(4) - Expansion of Non-Conforming Use, Existing 3,994 sf, Proposed 5,589 sf			
195-162 - Parking - Waiver Requested - no parking exists on site			
195-109, Schedule A - Minimum Rear Yard - Required 30ft., Existing 25.2, Proposed 5.2 ft			
	Maximum Bldg Coverage - Required 40%, Existing 56.5%, Proposed 62.2%		
	Maximum Impervious Coverage - Required 60%, Existing 62.9%, Proposed 79.1%		

6. VERIFICATION AND AUTHORIZATION

Owner's Statement: I, the undersigned, being the owner of the property described in this application, hereby consent to the makin of this application and the approval of the plans submitted. I hereby authorize members of the Land Use Boards and its staff to conduct a site visit of the premises that are the subject of this application.

459 Broadway Realty, LLC, by Robert J. Mancinelli,
Attorney for Property Owner/Applicant

Property Owner's Name (PRINTED) | Property Owner's Signature | 10-4-19 Date

Applicant's Statement: I hereby certify that the above statements made by me and the statements and information contained in the papers submitted in connection with this application are, to the best of my knowledge, true and accurate.

459 Broadway Realty, LLC, by Robert J. Mancinelli,
Attorney for Property Owner/Applicant

Applicant's Name (PRINTED) | Applicant's Signature | 10-4-19 Date

Sworn and Subscribed before me

4 day of Oct 2019
Month Year

CARYN LANTZ
A Notary Public of New Jersey
My Commission Expires 12/30/21

(Notary)

AFFIDAVIT AND NOTARIZATION

I hereby depose and say that all of the above statements and statements made in any documents submitted herewith are true.

459 BROADWAY REALTY, LLC

By: Robert J. Mancinelli, Esq. Applicant
Attorney for Owner/Applicant

Sworn and Subscribed to
Before me this 4 day
of Oct., 2019

CARYN LANTZ
A Notary Public of New Jersey
My Commission Expires 12/30/21

AFFIDAVIT OF OWNERSHIP

_____, of full age, being duly sworn according to law, upon my oath, depose and say:

I reside at _____, and I am the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the Borough of Westwood, commonly known as _____, and that I hereby authorize the applicant, _____, to make application in his or her behalf, and that the statements contained in this application are true.

_____
Owner

Sworn and Subscribed to
Before me this _____ day
of _____, _____

_____

195 Attachment 1

Borough of Westwood

Appendix A
Application Checklist
General Requirements for All Development Applications

Applicant's Name 459 Broadway Realty, LLC

Application # _____

Items Required	Yes	No	
1. Application Forms: 16 copies.	(X)	( )	
2. Fees and Escrow.	(X)	( )	
3. Certification of Taxes Paid.	(X)	( )	
4. Site Plan or Subdivision Plan: 16 copies.	(X)	( )	
5. Affidavit of Ownership. If applicant is not the owner, applicant's interest in land must be indicated, e.g., tenant, contract/purchaser, lienholder, etc., and permission of property owner to file the application must be submitted.	( )	(X)	
6. If applicant is a corporation or partnership applying to the Board or the Council for permission to subdivide a parcel of land into six or more lots, or applying for a variance to construct a multiple dwelling of 25 or more units or for approval of a site to be used for commercial purposes, list the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class as required by N.J.S.A. 40:55D-48.1 and 48.2.	(X)	( )	
7. A statement from the property owner granting permission for the Board and any of its experts to enter the subject premises for purposes of inspection in relation to a development application.	(X)	( )	
8. Statements as to any requirements for which waiver or variance is sought, together with a statement of reasons why same should be granted.	(X)	( )	
9. For minor site plans, minor subdivisions, preliminary major site plans and preliminary major subdivisions, a statement of any and all approvals which are required from other governmental or quasi-governmental entities.	(X)	( )	
10. If approval from the Bergen County Planning Board is required pursuant to P.L. 1968, c. 285, a copy of the application submitted to the Bergen County Planning Board must be submitted.	( )	(X*)	*To be submitted

Items Required	Yes	No
11. For minor subdivisions, preliminary major site plans and preliminary major subdivisions, one of the following:		
a. A letter of interpretation from the NJDEP;	( )	(X)
b. A letter of exemption from the NJDEP;	( )	(X)
c. A copy of any application made to the NJDEP for any permit concerning a proposed regulated activity in or around freshwater wetlands; or	( )	(X)
d. Documentation from a qualified professional demonstrating that no wetlands exist on the subject property, and demonstrating that no wetlands exist on adjacent property that would affect or limit development on the property which is the subject of the development application.	( )	(X)
12. For minor site plans, minor subdivisions, preliminary major site plans, preliminary major subdivisions and variance applications, a copy of any protective covenants or deed restrictions, if any, affecting the property in question, provided that if none exist, an affidavit from the owner certifying that no such covenants or restrictions exist shall be submitted.	( )	(X)
13. Complete checklist provided for one of the following development proposals (Applicant check one or more as required):		
Form 1 – Informal (Concept) Subdivision		____
Form 2 – Informal (Concept) Site Plan		____
Form 3 – Minor Site Plan		X
Form 4 – Minor Subdivision		____
Form 5 – Preliminary Major Site Plan		____
Form 6 – Preliminary Major Subdivision		____
Form 7 – Final Major Site Plan or Final Major Subdivision		____
Form 8 – Appeals and/or Interpretation of Ordinance		____
Form 9 – "D" Variance Application		X
Form 10 – "C" Variance Application		X
14. Submission of site photographs of existing conditions, including but not limited to existing structures, site frontage and relationship to adjacent properties.		

195 Attachment 4

Borough of Westwood

Appendix A
Form 3
Minor Site Plan
Plat Details and Requirements

Applicant's Name 459 Broadway Realty, LLC

Application # _____ Date Received _____

All applications for site plan approval shall be prepared, signed and sealed by a professional engineer. They shall bear the signature and the seal of a licensed land surveyor as to topographic and boundary survey data. A signed and sealed copy of the survey on which the site plan is based shall be submitted to the reviewing board with the site plan submission.

PLAN ACCURACY AND LEGIBILITY SUFFICIENT FOR REVIEW: Yes ( ) No ( )

PREPARED BY P.E. OR L.S.: Yes ( ) No ( )

Yes	No	
(X)	( )	1. A general description of the proposed development and a brief assessment of its effect on the site, adjacent properties, the neighborhood and the Borough as a whole, including but not necessarily limited to effects upon the natural environment, land use patterns, traffic and circulation, visual factors, utilities and drainage. Also included shall be the number of employees, the times of operation, the number and frequency of shipments and deliveries, and the nature of materials and chemicals used on the site.
(X)	( )	2. A key map showing location of tract to be considered in relation to the surrounding area, within at least 200 feet of the subject site.
(X)	( )	3. Title block containing name of applicant and owner, preparer, lot and block numbers, date prepared and date of last amendment.
( )	(X)	4. Space for signatures of Chairman and Secretary of the Board.
(X)	( )	5. Scale of map, both written and graphic. The scale shall contain no more than 50 feet to the inch.
(X)	( )	6. North arrow.
(X)	( )	7. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, lot areas, lot widths, lot coverage, floor area ratios, and density, both as to required and proposed, for the subject property.
(X)	( )	8. The boundaries of the tract in question, with dimensions of same.

Yes	No	
( )	(X)	9. Location of existing easements or rights-of-way, including power lines.
( )	(X)	10. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity.
(X)	( )	11. Location of existing buildings and their setbacks from property lines.
(X)	( )	12. Floor plans for existing and proposed buildings, showing the use and layout of internal space. Building elevation and floor plans shall be prepared by a New Jersey licensed architect.
( )	(X)	13. Location of existing and proposed parking, loading, access and circulation improvements, as well as signs. **
(X)	( )	14. If alterations to the existing building facade are proposed, elevations showing the nature of the construction. Submissions are to be prepared by a licensed New Jersey architect.
( )	(X)	15. Location and description of existing and proposed landscaping.
(X)	( )	16. Submission of site photographs of existing conditions, including, but not limited to, existing structures, site frontage and relationship to adjacent properties.

**Sign detail to be submitted upon approval

195 Attachment 10

Borough of Westwood

Appendix A
Form 9
"D" Variance Applications
Plat Details and Requirements

Applicant's Name 459 Broadway Realty, LLC

Application # _____ Date Received _____

In addition to the requirements indicated in § 195-23, the following information shall be submitted for all applications for a "D" variance to the Zoning Board of Adjustment, including those cases when the variance application has been bifurcated from any other applications which may be required.

PLAN ACCURACY AND LEGIBILITY
SUFFICIENT FOR REVIEW: Yes ( ) No ( )

Yes	No	
(X)	( )	1. A general description of the proposed development and a brief assessment of its effect on the site, adjacent properties, the neighborhood and the Borough as a whole, including but not necessarily limited to effects upon the natural environment, land use patterns, traffic and circulation, visual factors, utilities and drainage.
(X)	( )	2. A key map showing location of tract to be considered in relation to the surrounding area, within at least 200 feet of the subject site.
(X)	( )	3. Title block containing name of applicant and owner, preparer, lot and block numbers, date prepared and date of last amendment.
(X)	( )	4. Scale of map, both written and graphic. The scale shall contain no more than 50 feet to the inch.
(X)	( )	5. North arrow.
(X)	( )	6. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, lot areas, lot widths, lot coverage, floor area ratios, and density, both as to required and proposed, for the subject property.
(X)	( )	7. The location and width of any abutting streets, both right-of-way and pavement.
(X)	( )	8. The boundaries of the tract in question, with dimensions of same.
( )	(X)	9. Location of existing easements or rights-of-way, including power lines.
( )	(X)	10. Contours to determine the natural drainage of the land. Intervals shall be: up to 10% slope – 2 feet; over 10% slope – 5 feet.

Yes	No	
( )	(X)	11. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity.
(X)	( )	12. Location of existing buildings and their setbacks from property lines.
(X)	( )	13. Preliminary floor plans and building facade elevations for existing and proposed buildings. Building elevation and floor plans shall be prepared by a New Jersey licensed architect.
(X)	( )	14. Location of existing and proposed parking, loading, access and circulation improvements.
( )	(X)	15. Location and description of existing and proposed landscaping.
(X)	( )	16. A copy of the certified list of property owners within 200 feet of the subject property, prepared by the Tax Assessor. Said certified list shall be no more than 90 days old.
(X)	( )	17. Submission of site photographs of existing conditions, including, but not limited to, existing structures, site frontage and relationship to adjacent properties.

195 Attachment 11

Borough of Westwood

Appendix A
Form 10
"C" Variance Applications
Details and Requirements

Applicant's Name 459 Broadway Realty, LLC

Application # _____ Date Received _____

In addition to the requirements indicated in § 195-23, the following information shall be submitted for all applications for a "C" variance to the Zoning Board of Adjustment, and for all such applications before either the Planning Board or the Zoning Board of Adjustment when the variance application has been bifurcated from any other applications which may be required.

PLAN ACCURACY AND LEGIBILITY
SUFFICIENT FOR REVIEW: Yes ( ) No ( )

Yes	No	
(X)	( )	1. Title block containing name of applicant and owner, preparer, lot and block numbers, date prepared and date of last amendment.
( )	(X)	2. Space for signatures of Chairman and Secretary of the Board and the Borough Engineer.
(X)	( )	3. Scale of map, both written and graphic. The scale shall contain no more than 50 feet to the inch.
(X)	( )	4. North arrow.
(X)	( )	5. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, lot areas, lot widths, lot coverage, floor area ratios, density, number of parking spaces, and slope disturbance, both as to required and proposed, for the subject property.
(X)	( )	6. A copy of the certified list of property owners within 200 feet of the subject property, prepared by the Tax Assessor, must also be submitted. Said certified list shall be no more than 90 days old.
(X)	( )	7. A key map showing location of the tract to be considered in relation to the surrounding area, within at least 200 feet of the subject property.
(X)	( )	8. The boundaries of the site in question, with dimensions of same. Where it is physically impossible to show the entire property on the required sheet, a key map is permitted.
( )	(X)	9. Location of existing easements or rights-of-way, including power lines.

Yes	No	
( )	(X)	10. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity. If such features are located on adjacent property, but have the potential to affect the site development, they shall be shown.
( )	(X)	11. Existing and proposed topographic contours of the site and adjacent areas affecting the site. Contour intervals shall be no greater than five feet.
(X)	( )	12. Location of existing and proposed buildings, including accessory buildings, and their setbacks from property lines. Lines indicating the minimum required front, side and rear setbacks for principal buildings shall also be shown. The approximate location of existing buildings and paved areas on adjacent properties shall also be shown.
(X)	( )	13. If new buildings, expansion of existing buildings or interior renovations are proposed, floor plans for existing and proposed buildings shall be submitted, showing the use and layout of internal space, and front, rear and side building facade elevations, both at a scale not exceeding eight feet per inch. Building elevation and floor plans shall be prepared by a New Jersey licensed architect.
( )	(X)	14. Location and design of existing and proposed parking, loading, access and circulation improvements, showing dimensions of same.
( )	(X)	15. Existing and proposed signs, including the size, materials, nature of construction, location and illumination of same. If no signs are proposed, a statement indicating same shall be submitted. **
(X)	( )	16. The location and design of fences, walls, sidewalks and similar improvements to be constructed.
(X)	( )	17. Existing and proposed utility service, including septic systems with test hole locations and soil log information (if new system is proposed), connections to sanitary sewers, wells and connections to water mains.

****Sign detail to be submitted upon approval**

459 BROADWAY REALTY, LLC

EXHIBIT LIST

ZONING DENIAL dated 4/24/2019	EXHIBIT A
PROOF OF OWNERSHIP (DEED dated 3/7/2014 & recorded 3/18/2014)	EXHIBIT B
DISCLOSURE STATEMENT PURSUANT TO NJSA 40:55D-48.1 dated 10/3/2019	EXHIBIT C
OWNER AUTHORIZATION & CONSENT PERMITTING ACCESS dated 10/3/2019	EXHIBIT D
MEMO TO ZONING BOARD OF ADJUSTMENT dated 5/11/2020	EXHIBIT E
AFFIDAVIT OF PROPERTY OWNER dated 10/3/2019	EXHIBIT F
CERTIFICATION OF TAXES PAID dated 5/7/2020	EXHIBIT G
PROPERTY OWNER LIST FROM BOROUGH OF WESTWOOD dated 5/7/2020	EXHIBIT H
PHOTOGRAPHS OF SUBJECT & ADJACENT PROPERTIES	EXHIBIT I

EXHIBIT A

ZONING DENIAL
OFFICE OF THE ZONING ENFORCEMENT OFFICER
OF
BOROUGH OF WESTWOOD

Date: 04/24/2019
Re:Application#: 5893

Voucher/Receipt#
Check #: 725
Amount collected $ 50.00

To:

459 Broadway LLC

63 Mountain Blvd

Watchung NJ 07069

Your application for a permit to:

Addition 20' x 21' 1" x 17' 1" and Deck 14' x 20'

on the property at 459 Broadway Westwood Block : 807 Lot : 4
has been denied for noncompliance with provisions of Article (s) : 195-132 , 195-109 , 195-162 Sections :B(4) , Schedule A of the Municipal Zoning Ordinance for the following reasons:

Application is very vague. Bulk chart has not been submitted. It appears that the addition is part of splitting the building into 2 tenant spaces on the first floor as well as mainting the two second fllor residential units. This entire site is non-conforming as far as setbacks and coverages and can not be expanded on without zoning board approval. The property also lacks any type of parking.

Information on procedures for an appeal of this decision to the Board of Adjustment can be obtained from the Secretary of the Board of Adjustment. It should be noted that under State Statute, notice of appeal of this decision must be filed with this office not later than (20) days from the date of this notice.You can also file for a variance to the board of Adjustment and can obtain from the Secretary of the Board of Adjustment the required forms .

The permit which you submitted has been placed in the inactive files in the Community Development Office / Construction Code Department / Zoning Department. Please contact this office to reactivate the permit.

Denied by:

Armand Marini

Zoning Official

CC: Secretary, Board of Adjustment

Permit

Letter

Armand Marini, Zoning Official

EXHIBIT B

14-016907 Deed - Exempt
V Bk: 01636 Pg: 0867-0886 Rec. Fee $233.00
John S. Hogan, Bergen County Clerk
Recorded 03/18/2014 10:20:57 AM

(2E)
20p
233

Prepared by:

Shoshana Schiff, Esq.

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TRUSTEE'S DEED

THIS DEED is made as of March 7, 2014, by **DONALD V. BIASE**, Chapter 7 trustee in bankruptcy for 459 Broadway, LLC (the "Debtor"), having an address c/o Trenk, DiPasquale, Della Fera & Sodono, P.C., Attention: Shoshana Schiff, Esq., 347 Mount Pleasant Avenue, Suite 300, West Orange, New Jersey 07052 (the "Trustee" or the "Grantor"), and **459 BROADWAY REALTY, LLC**, or its assignee or designee, having an address c/o Gerasimos M. Kitsopoulos, Esq., Kitsopoulos Law Firm, P.C., 63 Mountain Boulevard, Watchung, New Jersey 07069-6336 (the "Grantee").

W I T N E S S E T H:

WHEREAS, an Involuntary Petition for relief under Chapter 7 of Title 11 of the United States Bankruptcy Code was filed against the Debtor on June 28, 2013, in the United States Bankruptcy Court for the District of New Jersey at Case No. 13-24389 (NLW) (the "Bankruptcy Case"); and

WHEREAS, on September 16, 2013, the United States Bankruptcy Court entered an Order for Relief in the Bankruptcy Case; and

WHEREAS, on September 25, 2013, the Grantor was appointed as Chapter 7 Trustee for the Debtor's estate by the Bankruptcy Court; and

WHEREAS, on November 12, 2013, the United States Bankruptcy Court entered an Order Substantively Consolidating Estates whereby the Debtor's case was substantively consolidated with six (6) other involuntary bankruptcy cases under Lead Case No. 13-16624 (NLW) (the "Lead Bankruptcy Case"); and

R+R
Counsellors Title Agency, Inc
504 Hooper Avenue
Toms River, New Jersey 08753
14-23243

WHEREAS, the Grantor is the owner of real property located at 459 Broadway, Westwood, New Jersey, also referred to as Block 807, Lot 4 on the Tax Map of the Borough of Westwood, County of Bergen, State of New Jersey (the "Property"); and

WHEREAS, on October 22, 2013, the Trustee filed a Motion for the Entry of Orders (A) Authorizing the Sale of the Debtors' Real Property, Free and Clear of All Liens, Claims, Interests and Encumbrances; (B) Approving Bidding Procedures and Form, Manner and Sufficiency of Notice of the Sale; (C) Scheduling an Auction Sale and Hearing to Approve the Highest and Best Offers; and (D) Granting Further and Related Relief (the "Sale Motion"); and

WHEREAS, on October 30, 2013, the United States Bankruptcy Court entered an order, approving, inter alia, bidding procedures in connection with the Trustee's sale of the Property (the "Bidding Procedures Order"); and

WHEREAS, on December 4, 2013, the Court conducted an auction sale and hearing to approve the highest and best offers on the Property (the "Auction Sale and Hearing"); and

WHEREAS, the Trustee and the Court determined that David O'Brien, principal of the Grantee, was the highest and best bidder for the Property at the Auction Sale and Hearing; and

WHEREAS, the United States Bankruptcy Court entered an order in the Lead Bankruptcy Case, on December 18, 2013, authorizing, inter alia, the Grantor's sale of the Property to David O'Brien or his designee or assignee (the "Sale Order"). The Sale Order is annexed hereto as **Exhibit "A;"** and

WHEREAS, the sale of Grantor's rights, title and interest in the Property is "AS IS" and "WHERE IS" and without any warranties, express or implied, or representation of the Grantor including, without limitation, the environmental condition of the Property. Grantee shall be responsible, at his sole cost and expense, to obtain necessary governmental certificates or

Unofficial Copy Bergen County Clerk

approvals, if any, including, but not limited to, environmental certificates that might be necessary to convey the Property to Grantee and to cure any violations which exist or may exist at the Property.

NOW, THEREFORE, the Grantor, by virtue of the title and powers duly vested in Grantor by the provisions of the Bankruptcy Code, in consideration of the sum of Nine Hundred Ten Thousand ($910,000.00) Dollars and 00/100, paid to the Grantor by the Grantee, receipt thereof is hereby acknowledged, has demised, released, and transferred, and by these presents, demises, releases, conveys, and transfers to Grantee all of the rights, title and interest, claims and demands, Grantor has in and to the Property and all the improvements thereon, situate, lying and being in the Borough of Westwood, County of Bergen, State of New Jersey, more particularly described on **Exhibit "B"** annexed hereto, and made a part hereof, and pursuant to the Order of the Bankruptcy Court of the District of New Jersey, annexed hereto as **Exhibit "A,"** authorizing the sale and conveyance.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, rights, title and interest and claims whatsoever of the said Grantor, either in law or equity to the only property use, benefit and behalf of the Grantee.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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IN WITNESS WHEREOF, the Grantor, **DONALD V. BIASE**, Chapter 7 Trustee for 459 Broadway, LLC, has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered
in the Presence of:

DONALD V. BIASE, Chapter 7 Trustee for
459 Broadway, LLC

STATE OF NEW JERSEY)
) SS:
COUNTY OF ESSEX)

I am a Notary Public of the State of New Jersey and an officer authorized to take acknowledgements and proofs in this State. I sign this acknowledgement below to certify that it was made before me.

On March 6, 2014, **DONALD V. BIASE**, as Chapter 7 Trustee for 459 Broadway, LLC, appeared before me in person. I am satisfied that he is the person named in and who signed this Deed. This person acknowledged signing, sealing and delivering this Deed. This person also acknowledged that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by this Deed, as such consideration is defined in P.L. 1968, C. 49, Sec. 1(c), is $910,000.00.

Notary Public

4842-4922-1911, v. 1

JENNIFER L. YOUNG
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires February 28, 2017
I.D. No. 2417908

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Unofficial Copy - Bergen County Clerk

EXHIBIT A

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United States Bankruptcy Court for the District of New Jersey
Order Filed on 12/18/2013
by Clerk, U.S. Bankruptcy Court, District of New Jersey

TRENK, DiPASQUALE,
DELLA FERA & SODONO, P.C.
347 Mt. Pleasant Avenue, Suite 300
West Orange, New Jersey 07052
(973) 243-8600
Joseph J. DiPasquale, Esq.
Shoshana Schiff, Esq.
Counsel to Donald V. Biase,
Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY

In re: ROBERT G. SCHROEDER, et al., Debtors.	Chapter 7 Lead Case No. 13-16624 (NLW) Substantively Consolidated Hon. Novalyn L. Winfield, U.S.B.J.

ORDER AUTHORIZING AND APPROVING (A) SALE OF REAL PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES PURSUANT TO 11 U.S.C. §§ 105(a) AND 363(b), (f) AND (m); AND (B) GRANTING FURTHER AND RELATED RELIEF

The relief set forth on the following pages, numbered two (2) through eleven (11), is hereby **ORDERED**.

DATED: 12/18/2013

Novalyn L. Winfield
Honorable Novalyn L. Winfield
United States Bankruptcy Judge

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Debtor: Robert G. Schroeder, et al.

Lead Case No.: 13-16624 (NLW)
Substantively Consolidated

Caption of Order: Order Authorizing and Approving (A) Sale of Real Property Free and Clear of All Liens Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §§ 105(a) and 363(b), (f) and (m); and (B) Granting Further and Related Relief

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This matter being brought before the Court by Donald V. Biase, Chapter 7 Trustee (the "**Trustee**") for Robert G. Schroeder ("**Schroeder**"), as well as the Trustee for 583 Broadway, LLC ("**583 Broadway**"), 74 Prospect Place, LLC ("**74 Prospect**"), 539 Piermont, LLC ("**539 Piermont**"), 459 Broadway, LLC ("**459 Broadway**"), 89 Broadway Park Ridge, LLC ("**89 Broadway**"), 99 Roland Street Park Ridge, LLC ("**99 Roland Street**," and together with 583 Broadway, 74 Prospect, 539 Piermont, 459 Broadway, and 89 Broadway the "**Related Debtors**")[1], by and through his counsel, upon the filing of a verified application in support of his motion pursuant to sections 105(a), 363(b), (f) and (m), and 541(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "**Bankruptcy Code**") and Rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") for the entry of orders (A) authorizing the sale of all of the Related Debtors' real property to 100 Mile Fund, LLC ("**100 Mile Fund**"), free and clear of all liens, claims, interests and encumbrances (the "**Sale**"); (B) approving bidding procedures and form, manner and sufficiency of notice in connection with the Sale; (C) scheduling an auction sale and hearing to approve the highest and best offer (the "**Auction**"); and (D) granting further and related relief (the "**Motion**") (the relief requested in subparts B and C is referred to as "**Part I of the Motion**" and order granting Part I of the Motion dated October 30, 2013, is referred to as the "**Bidding Procedures Order**"; the relief requested in subparts (A) and (D) of the Motion is referred to as "**Part II of the Motion**";

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[1] The Schroeder case and the Related Debtors' cases were substantively consolidated by order dated November 12, 2013.

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and upon consideration of the Trustee's verified application in support of the Motion (the "**Application**"),[2] and any other documents in support of the Motion; and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O), and (iii) notice of the Motion and proposed form of orders was served on those parties required to receive notice pursuant to Title 11 of the United States Code (the "**Bankruptcy Code**"), the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and the District of New Jersey Local Bankruptcy Rules; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the Court having determined that the relief sought in the Motion is in the best interests of Schroeder, the Related Debtors, their estates and their creditors; and after due deliberation and sufficient cause appearing therefore;

THE COURT HEREBY FINDS AND DETERMINES THAT:

A. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue of the Motion is proper pursuant to 27 U.S.C. §§ 1408 and 1409.

B. Approval of the Sale at this time will maximize the value of the estates, and hence, such approval is in the best interest of Schroeder, the Related Debtors, their creditors, and their estates.

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[2] All capitalized terms not defined herein are intended to have the meanings ascribed to them in the accompanying Application in support of the Motion.

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C. The Trustee has articulated sound business reasons for consummating the Sale and for selling the Related Debtors' Properties, and it is a reasonable exercise of the Trustee's business judgment to consummate the Sale.

D. 100 Mile Fund was permitted to credit bid on the Related Debtors' Properties in accordance with 11 U.S.C. § 363(k) and the Application.

E. The following are the results of the Auction conducted on the record on December 4, 2013:

PROPERTY ADDRESS	HIGH BIDDER	HIGH BID AMOUNT	BACK-UP BIDDER	BACK-UP BID AMOUNT
459 Broadway Westwood, NJ	David O'Brien	$910,000	Rajesh Malhorta	$900,000
539 Piermont Avenue Hillsdale, NJ	William Doody	$620,000	100 Mile Fund	$610,000
74 Prospect Place Hillsdale, NJ	100 Mile Fund	$610,000	Lou Ragusa	$560,000
99 Roland Street Park Ridge, NJ	100 Mile Fund	$250,000	n/a	n/a
89 Broadway Park Ridge, NJ	100 Mile Fund	$775,000	n/a	n/a
583 Broadway Westwood, NJ	100 Mile Fund	$975,000	n/a	n/a
Bulk Bid	n/a	n/a	n/a	n/a

F. The Trustee may sell the Related Debtors' Properties to the High Bidders set forth in the previous paragraph or their assignee/designee (the "**Buyers**"), free and clear of all liens, claims, interests and encumbrances in accordance with, and to the extent permitted by, Bankruptcy Code section 363(f). If any of the High Bidders fail to close on the sales of the

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properties, the High Bidder will forfeit its deposit and the Trustee is authorized to sell the property to the Back-up Bidder.

G. The Related Debtors' Properties are being sold "AS IS, WHERE IS" with no representations of any kind.

H. The transfer of the Related Debtors' Properties to the respective Buyers does not and will not subject the Buyers to any liability whatsoever with respect to the ownership of the Related Debtors' Properties prior to the Closing.

I. The purchase price to be paid by each of the Buyers is fair consideration and constitutes reasonably equivalent value for each of the Related Debtors' Properties.

J. Each of the Buyers is a purchaser in good faith, as that term is used in Bankruptcy Code section 363(m), with respect to the Sale. The Sale was negotiated, proposed and entered into by the parties in good faith, from arms'-length bargaining positions and without collusion, and therefore, each one of the Buyers is entitled to the protections of Bankruptcy Code section 363(m) with respect to the Sale. Neither the Trustee nor any of the Buyers have engaged in any conduct that would cause or permit the Sale to be voided, nor that would justify the imposition of costs or damages, under Bankruptcy Code section 363(n).

K. As evidenced by the certificates of service filed with the Court, (i) proper, timely, adequate and sufficient notice of the Motion has been provided in accordance with Bankruptcy Code sections 363 and Bankruptcy Rules 2002, 6004, 9007, and 9014; (ii) such notice was good,

Debtor: Robert G. Schroeder, et al.

Lead Case No.: 13-16624 (NLW)
Substantively Consolidated

Caption of Order: Order Authorizing and Approving (A) Sale of Real Property Free and Clear of All Liens Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §§ 105(a) and 363(b), (f) and (m); and (B) Granting Further and Related Relief

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sufficient and appropriate under the particular circumstances; and (iii) no other or further notice of the Motion or the entry of this order shall be required.

L. Nondebtor parties holding either valid liens, claims, interests or encumbrances with respect to the sold Related Debtors' Properties who did not object, or who withdrew their objections to the Motion are deemed to have consented to the Sale of the Related Debtors' Properties free and clear of all liens, claims, interests and encumbrances pursuant to Bankruptcy Code section 363(f)(2).

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. All of the findings of fact and conclusions of law set forth above are incorporated herein by reference, and Part II of the Motion is granted in its entirety.

2. The "Application For Emergent Order To Stay Sale of Property Ordered 10/30/13 Pending Appeal" by Grace Wong be, and hereby is, denied.

3. The oral request by Grace Wong to dismiss the Schroeder bankruptcy case for lack of jurisdiction be, and hereby is, denied.

4. The Sale, and all ancillary documents and transactions contemplated therein, including the transfer of the Related Debtors' Properties by Trustee to the each of the respective Buyers, are approved and authorized under the Bankruptcy Code, including sections 105, 363 and 365 thereof.

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5. The transfer of each of the Related Debtors' Properties by Trustee to the respective Buyers upon closing will be a valid, legal, and effective transfer of the Related Debtors' Properties notwithstanding any requirement for approval or consent by any entity (as defined in section 101(15) of the Bankruptcy Code).

6. Pursuant to Bankruptcy Code section 363(b), the Trustee is hereby authorized to sell and transfer the Related Debtors' Properties pursuant to and in accordance with the terms and conditions set forth in the Motion and to take all other actions as are necessary to effectuate all of the terms thereof and to consummate the transactions contemplated therein, including, without limitation, such actions as are necessary to execute and deliver all documents and instruments referenced in and/or contemplated in connection with the Sale without any further authorization of the Court.

7. Upon closing, title to the Related Debtors' Properties shall pass to Buyers pursuant to, and to the fullest extent permitted by, Bankruptcy Code section 363 and all other applicable laws, free and clear of any and all liens, claims, interests and encumbrances (including the mortgages in favor of 100 Mile Fund, Gourmos, Grace Wong, Quincy Wong, Melissa Sideco, Marian Sideco, Norman Sideco, and Divina Saenz), mechanics', materialmen's and other consensual and non-consensual liens and statutory liens, security interests, encumbrances and claims (including, but not limited to, any "claim" as defined in Bankruptcy Code section 101(5)), reclamation claims, malpractice claims, tort claims, any liability or obligations under COBRA,

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5. The transfer of each of the Related Debtors' Properties by Trustee to the respective Buyers upon closing will be a valid, legal, and effective transfer of the Related Debtors' Properties notwithstanding any requirement for approval or consent by any entity (as defined in section 101(15) of the Bankruptcy Code).

6. Pursuant to Bankruptcy Code section 363(b), the Trustee is hereby authorized to sell and transfer the Related Debtors' Properties pursuant to and in accordance with the terms and conditions set forth in the Motion and to take all other actions as are necessary to effectuate all of the terms thereof and to consummate the transactions contemplated therein, including, without limitation, such actions as are necessary to execute and deliver all documents and instruments referenced in and/or contemplated in connection with the Sale without any further authorization of the Court.

7. Upon closing, title to the Related Debtors' Properties shall pass to Buyers pursuant to, and to the fullest extent permitted by, Bankruptcy Code section 363 and all other applicable laws, free and clear of any and all liens, claims, interests and encumbrances (including the mortgages in favor of 100 Mile Fund, Gourmos, Grace Wong, Quincy Wong, Melissa Sideco, Marian Sideco, Norman Sideco, and Divina Saenz), mechanics', materialmen's and other consensual and non-consensual liens and statutory liens, security interests, encumbrances and claims (including, but not limited to, any "claim" as defined in Bankruptcy Code section 101(5)), reclamation claims, malpractice claims, tort claims, any liability or obligations under COBRA,

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mortgages, deeds of trust, pledges, covenants, restrictions, hypothecations, charges, indentures, loan agreements, causes of action, instruments, contracts, leases, licenses, options, rights of first refusal, offsets, recoupment, rights of recovery, judgments, orders and decrees of any court or foreign or domestic government entity, claims for reimbursement, contribution, indemnity or exoneration, assignment, preferences, debts, charges, suits, rights of recovery, interests, products liability, alter-ego, environmental, successor liability, tax and other liabilities, causes of action and claims, and in such case whether secured or unsecured, choate or inchoate, filed or unfilled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, or known or unknown, whether arising prior to, on, or subsequent to the Petition Date, whether imposed by agreement, understanding, law, equity or otherwise (collectively, the "**Liens and Claims**"), with any Liens and Claims to attach only to the proceeds of sale with the same priority, validity, force, and effect as they existed with respect to the Related Debtors' Properties before the closing, subject to any and all rights, claims, defenses, and objections of Trustee and any other party-in-interest.

8. The Sale shall not subject Buyers to any liability by reason of such transfers and assignments under the laws of the United States, any state, territory or possession thereof or the District of Columbia based, in whole or in part, directly or indirectly, on any theory of law or

Debtor: Robert G. Schroeder, et al.

Lead Case No.: 13-16624 (NLW)
Substantively Consolidated

Caption of Order: Order Authorizing and Approving (A) Sale of Real Property Free and Clear of All Liens Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §§ 105(a) and 363(b), (f) and (m); and (B) Granting Further and Related Relief

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equity, including, without limitation, any theory of successor or transferee liability, and all creditors and parties-in-interest are prohibited from asserting such claims against the Buyers.

9. The Sale constitutes legal, valid, and effective transfers and shall vest the each of the Buyers with legal title in and to the respective Related Debtors' Properties.

10. The closings on the sales of the Related Debtors' Properties will take place at the West Orange office of Trenk, DiPasquale, Della Fera & Sodono, P.C., within thirty (30) days of the entry of this Sale Order or as otherwise agreed to by and between the Trustee, the respective Buyers and 100 Mile Fund.

11. At closing, the Trustee will provide to each of the Buyers a Trustee's Deed, a Seller's Residency Certification/Exemption, and Affidavit of Consideration for Use by Seller with respect to each of the Related Debtors' Properties which will allow each of the Buyers to record title to each of the Related Debtors' Properties.

12. At the closings on each of the Related Debtors' Properties, 100 Mile Fund will pay all outstanding real estate taxes and other municipal charges that act as liens against the Related Debtors' Properties.

13. At the closings on 459 Broadway, 539 Piermont and/or 74 Prospect, the Carve-Out ($75,000) and the Additional Carve-Out ($21,000) will be paid to the Trustee from the closing proceeds in a manner agreed to by the Trustee and 100 Mile Fund in accordance with 11 U.S.C. § 506(c).

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14. At closing on 459 Broadway, 539 Piermont and 74 Prospect, the proceeds of sale from these properties will be paid to 100 Mile Fund after payment of the Carve-Out and the Additional Carve-Out and other necessary closing adjustments agreed upon by the Trustee and 100 Mile Fund.

15. 100 Mile Fund waives all deficiency and other claims against the Debtor and Related Debtors.

16. All objections to the Motion and the relief requested therein that have not been withdrawn, waived or settled, and all reservations of rights included in such objections, are hereby overruled on the merits and denied.

17. This Court shall retain exclusive jurisdiction to enforce the provisions of this Order and to resolve any issue or dispute concerning the interpretation, implementation or enforcement of this Order or the rights and duties of the parties hereunder or thereunder, including, without limitation, any issue of dispute concerning the transfer of the Related Debtors' Properties, free and clear of Liens and Claims.

18. The provisions of this Order shall be self-executing, and neither the Trustee, Schroeder, Related Debtors, Buyers nor any other party shall be required to execute or file releases, termination statements, assignments, cancellations, consents or other instruments to effectuate, consummate and/or implement the provisions hereof with respect to such sale;

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provided, however, that this paragraph shall not excuse such parties from performing any and all of their respective obligations under the Sale.

19. The Sale approved by this Order is not subject to avoidance or the imposition of costs and damages pursuant to Bankruptcy Code section 363(n).

20. The consideration to be provided by Buyers in exchange for the Related Debtors' Properties is hereby deemed to constitute reasonably equivalent value and fair consideration.

21. A true copy of this Order shall be served on all parties who received notice of the Motion within seven (7) days of the date hereof.

823036_1.DOCX

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EXHIBIT B

Schedule A
(Description)

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All that certain lot, parcel or tract of land, situate and lying in the Borough of Westwood, County of Bergen and State of New Jersey being more particularly described as follows:

BEGINNING at a point in the Easterly sideline of Broadway (66.64' ROW), said point being located the following courses and distances from the intersection formed by the centerline of Broadway and the centerline Washington Avenue; thence

a. Along the centerline of Broadway, North 18 degrees 10 minutes 00 seconds West, a distance of 203.07 feet to a point; thence

b. North 71 degrees 50 minutes 00 seconds East, a distance of 30.00 feet to the point of BEGINNING.

1. North 18 degrees 10 minutes 00 seconds West, a distance of 47.25 feet to a point; thence

2. North 71 degrees 50 minutes 00 seconds East, a distance of 150.00 feet to a point; thence

3. South 18 degrees 10 minutes 00 seconds East, a distance of 47.00 feet to a point; thence

4. South 71 degrees 50 minutes 00 seconds West, a distance of 75.00 feet to the point; thence.

5. South 18 degrees 10 minutes 00 seconds East, a distance of 0.25 feet to a point; thence

6. South 71 degrees 50 minutes 00 seconds West, a distance of 75.00 feet to the point and place of BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY: Also known as Lot 4 in Block 807 on the Borough of Westwood Tax Map.

The above description is drawn in accordance with a survey prepared by EKA ASSOCIATES, P.A. (JAMES R. WATSON, PLS), dated JANUARY 7, 2014.

Amended

RTF-1 (Rev. 7/14/10)
MUST SUBMIT IN DUPLICATE

STATE OF NEW JERSEY
AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER
(Chapter 49, P.L.1968, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 46:15-5 et seq.)
BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY

COUNTY ESSEX } SS. County Municipal Code 0267

MUNICIPALITY OF PROPERTY LOCATION Westwood

FOR RECORDER'S USE ONLY
Consideration $
RTF paid by seller $
Date By

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE *(See Instructions #3 and #4 on reverse side)*

Deponent, Donald V. Biase, Chapter 7 Trustee (Name), being duly sworn according to law upon his/her oath, deposes and says that he/she is the Grantor (Grantor, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.) in a deed dated March 7, 2014 transferring real property identified as Block number 807 Lot number 4 located at 459 Broadway, Westwood (Street Address, Town) and annexed thereto.

(2) CONSIDERATION $ 910,000.00 *(Instructions #1 and #5 on reverse side)* ☐ no prior mortgage to which property is subject.

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

(3A) REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS:
(See Instructions #5A and #7 on reverse side)
Total Assessed Valuation ÷ Director's Ratio = Equalized Assessed Valuation
$ 650,000.00 ÷ 89.48 % = $ 726,419.31
If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE *(See Instruction #8 on reverse side)*
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through C. 66, P.L. 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.
Full exemption from fee per 8(g) - Grantor is Chapter 7 Trustee in Bankruptcy for 459 Broadway, LLC; sale is being made pursuant to Order entered by the Bankruptcy Court on December 18, 2013, a copy of which is annexed to Deed as Exhibit "A."

(5) PARTIAL EXEMPTION FROM FEE *(Instruction #9 on reverse side)*
NOTE: All boxes below apply to grantor(s) *only*. **ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED.** Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic, Supplemental, and General Purpose Fees, as applicable, imposed by C. 176, P.L. 1975, C. 113, P.L. 2004, and C. 66, P.L. 2004 for the following reason(s):

A. SENIOR CITIZEN Grantor(s) ☐ 62 years of age or over. * *(Instruction #9 on reverse side for A or B)*
B. BLIND PERSON Grantor(s) ☐ legally blind or; *
DISABLED PERSON Grantor(s) ☐ permanently and totally disabled ☐ receiving disability payments ☐ not gainfully employed*

Senior citizens, blind persons, or disabled persons must also meet **all of the following criteria:**
☐ Owned and occupied by grantor(s) at time of sale. ☐ Resident of State of New Jersey.
☐ One or two-family residential premises. ☐ Owners as joint tenants must all qualify.

*IN CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

C. LOW AND MODERATE INCOME HOUSING *(Instruction #9 on reverse side)*
☐ Affordable according to H.U.D. standards. ☐ Reserved for occupancy.
☐ Meets income requirements of region. ☐ Subject to resale controls.

(6) NEW CONSTRUCTION *(Instructions #2, #10 and #12 on reverse side)*
☐ Entirely new improvement. ☐ Not previously occupied.
☐ Not previously used for any purpose. ☐ "NEW CONSTRUCTION" printed clearly at top of first page of the deed.

(7) RELATED LEGAL ENTITIES TO LEGAL ENTITIES *(Instructions #5, #12, #14 on reverse side)*
☐ No prior mortgage assumed or to which property is subject at time of sale.
☐ No contributions to capital by either grantor or grantee legal entity.
☐ No stock or money exchanged by or between grantor or grantee legal entities.

(8) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me this 7th day of March, 2014

Signature of Deponent: Donald V. Biase

Donald V. Biase, Chapter 7 Trustee
Grantor Name

c/o Trenk, DiPasquale, et al.
347 Mt. Pleasant Avenue, Suite 300
West Orange, NJ 07052
Deponent Address

c/o Trenk, DiPasquale, et al.
347 Mt. Pleasant Avenue, Suite 300
West Orange, NJ 07052
Grantor Address at Time of Sale

XXX-XXX- 185
Last three digits in Grantor's Social Security Number

Shoshana Schiff, Esq.
Name/Company of Settlement Officer

Jennifer L. Young
JENNIFER L. YOUNG
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires February 28, 2017
I.D. No. 2417908

FOR OFFICIAL USE ONLY
Instrument Number County
Deed Number Book Page
Deed Dated Date Recorded

County recording officers shall forward one copy of each RTF-1 form when Section 3A is completed to:
STATE OF NEW JERSEY
PO BOX 251
TRENTON, NJ 08695-0251
ATTENTION: REALTY TRANSFER FEE UNIT

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at:
www.state.nj.us/treasury/taxation/lpt/localtax.htm

GIT/REP-3
(5-12)

State of New Jersey

SELLER'S RESIDENCY CERTIFICATION/EXEMPTION

(C.55, P.L. 2004)

Official Copy Bergen County Clerk

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, Page 2)

Names(s)

Donald V. Biase, Chapter 7 Trustee for 459 Broadway, LLC

Current Resident Address:

Street: c/o Trenk, DiPasquale, Della Fera & Sodono, P.C., Attention: Shoshana Schiff, Esq., 347 Mount Pleasant Avenue, Suite 300

City, Town, Post Office: West Orange | State: NJ | Zip Code: 07052

PROPERTY INFORMATION (Brief Property Description)

Block(s): 807 | Lot(s): 4 | Qualifier:

Street Address: 459 Broadway

City, Town, Post Office: Westwood | State: NJ | Zip Code: 07675

Seller's Percentage of Ownership: 100% | Consideration: $910,000.00 | Closing Date: 3/7/2014

SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 10 apply to Residents and Non-residents)

1. [X] I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. [ ] The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. [ ] I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. [ ] Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. [ ] Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A.54A:1-1 et seq.
6. [ ] The total consideration for the property is $1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. [ ] The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).

   [ ] No non-like kind property received.
8. [ ] Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.
9. [ ] The property being sold is subject to a short sale instituted by the mortgagee, whereby the seller has agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. [ ] The deed being recorded is a deed dated prior to the effective date of P.L. 2004, c. 55 (August 1, 2004), and was previously unrecorded.

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that the Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

3/6/14
Date

Donald V. Biase
Signature
(Seller) Please indicate if Power of Attorney or Attorney in Fact

Date

Signature
(Seller) Please indicate if Power of Attorney or Attorney in Fact

EXHIBIT C

DISCLOSURE STATEMENT

Pursuant to N.J.S.A. 40:55D-48.1, the names and addresses of all persons owning 10% of the stock in a corporate applicant or 10% interest in any partnership applicant must be disclosed. In accordance with N.J.S.A. 40:55-D48.2 that disclosure requirement applies to any corporation or partnership which owns more than 10% interest in the applicant followed up the chain of ownership until the names and addresses of the non-corporate stockholders and partners exceeding the 10% ownership criterion have been disclosed.

Name David O'Brien, Member

Address 63 Mountain Boulevard, Watchung, New Jersey

Interest 90%

Name Gerasimos Kitsopoulos, Member

Address 63 Mountain Boulevard, Watchung, New Jersey

Interest 10%

Dated: October 3, 2019

EXHIBIT D

OWNER AUTHORIZATION & CONSENT

I, Robert J. Mancinelli, Esq., Attorney for 459 Broadway Realty, LLC, who is the Applicant and Owner of 459 Broadway, Westwood, NJ, Block 807, Lot 4, the subject premises, hereby consents to and authorizes the Board and any of its professional experts to enter onto the premises for purposes of inspection in connection with this application.

459 BROADWAY REALTY, LLC

By:_____

Robert J. Mancinelli, Esq., Attorney for Applicant/Owner

Dated: October 3, 2019

EXHIBIT E

APPLICATION OF 459 BROADWAY REALTY, LLC
459 Broadway, Westwood, New Jersey
Block 807, Lot 4

Dated: May 11, 2020

The subject property is located at 459 Broadway, is a mixed-use building, situated in the CBD zone district, and designated as Block 807, Lot 4.

The first floor of the building currently has two commercial spaces. One commercial space is occupied by a nail salon and the other commercial space is currently vacant but was once occupied by an auto parts store. There are two residential apartment buildings located on the second floor.

The Applicant/Owner, 459 Broadway Realty, LLC (hereinafter referred to as "Applicant") proposes to renovate the existing building's exterior and interior; replace the existing one -story back portion of the building and add a one-story 438 sf addition to same; install 147 sf landing and steps; install a 604 sf patio; and install a 423 sf walkway to the back of the building, thereby increasing the total building area to 5,589 sf. The vacant commercial space will be broken into two new units wherein a 840 sf unit facing Broadway will be created and a 2,310 sf unit facing Center Avenue will be created with a new handicap accessible bathroom. All improvements to the building will take place in accordance with the plans submitted by Applicant's Engineer and Architect. Upon completion of the renovations Applicant will have three commercial units on the 1st floor and two residential units on the 2nd floor.

With regard to the foregoing improvements, Applicant seeks preliminary and final site plan approval, use and bulk variances as follows:

1. **Expansion of Non-Conforming Structure.** Section 195-132(B)(4).

2. **Minimum Rear Yard.** Section 195-109, Schedule A. The minimum rear yard permitted is 30 ft. The existing non-conforming rear yard is 25.2 ft. The Applicant is proposing a rear yard setback of 5.2 ft.

3. **Maximum Building Coverage.** Section 195-109, Schedule A. The maximum building coverage is 40%. The existing non-conforming building coverage is 56.5%. The Applicant is proposing a building coverage of 62.2%.

4. **Maximum Impervious Coverage.** Section 195-109, Schedule A. The maximum impervious coverage is 60%. The existing non-conforming impervious coverage is 62.9%. The Applicant is proposing a 79.1% impervious coverage.

5. With regard to Section 195-162, there has never been on-site parking for the use of the subject premises. Applicant hereby requests a waiver from Section 195-162.

6. **Minimum Lot Area.** Section 195-109, Schedule A. The minimum lot area required is 15,000 square feet. The existing non-conforming lot area is 7,069 square feet. The Applicant proposes no change to the existing non-conformity.

7. **Minimum Lot Width.** Section 195-109, Schedule A. The minimum lot width required is 100 feet. The existing non-conforming lot width is 47.25 feet. The Applicant proposes no change to the existing non-conformity.

8. **Minimum Front Yard.** Section 195-109, Schedule A. The minimum front yard required is 20 feet. The existing non-conforming front yard is 0 feet. The Applicant proposes no change to the existing non-conformity.

9. **Minimum Side Yard (Each).** Section 195-109, Schedule A. The minimum side yard required is 10 feet. The existing non-conforming side yard is 0 feet. The Applicant proposes no change to the existing non-conformity.

10. **Minimum Side Yard (Total).** Section 195-109, Schedule A. The minimum side yard (total) required is 20% of lot width. The existing non-conforming side yard is 0 feet. The Applicant proposed no change to the existing non-conformity.

The subject premises non-conforming features present practical difficulties and undue hardship upon the Applicant. Granting the requested relief of the Applicant will cause the subject site to become aesthetically pleasing and consistent with the Borough's Master Plan and surrounding property owners.

EXHIBIT F

OWNER AFFIDAVIT

STATE OF NEW JERSEY)
) SS:
COUNTY OF BERGEN)

I, Robert J. Mancinelli, Esq., Attorney for 459 Broadway Realty, LLC, who is the Applicant and Owner of the premises located at 459 Broadway, Westwood, New Jersey, Block 807, Lot 4, being duly sworn according to law, deposes and says that:

1. Applicant is the present owner of the premises known and designated as 459 Broadway, in the Borough of Westwood, County of Bergen, and State of New Jersey, Lot 4, Block 807.

2. To the best of Applicant's knowledge there are no easements, deed restrictions or protective covenants that affects and/or would prohibit the proposed development to the subject premises.

3. To the best of Applicant's knowledge, no land use applications have been made that have affected the subject property in the past five (5) years.

4. We are aware that the Borough of Westwood Zoning Board of Adjustment is relying on our truthfulness and the statements made in this affidavit.

Sworn to and subscribed before me
on this 4 day of October, 2019.

CARYN LANTZ
A Notary Public of New Jersey
My Commission Expires 2/20/21

459 BROADWAY REALTY, LLC

Robert J. Mancinelli, Esq.
Attorney for Owner/Applicant

EXHIBIT G

Certification of Payment of Taxes

May 7, 2020

I, Stefanie Stokes, Tax Collector of the Borough of Westwood, hereby certify that the property taxes on the property known as 459 Broadway, Block 807, Lot 4, as shown on the Borough Tax Assessment Map, has been paid through the 1st quarter 2020 and that the taxes on the aforementioned property are not past due nor are there any penalties, assessments, or interest due or outstanding as of this date.

S Stokes

Signature of Tax Collector

EXHIBIT H

BOROUGH OF WESTWOOD

TELEPHONE (201) 664-7100 • FAX (201) 664-5340 • 101 WASHINGTON AVENUE • WESTWOOD, NJ 07675

May 7, 2020

Meyerson, Fox, Mancinelli, & Conte
One Paragon Drive
Suite 240
Montvale, NJ 07645

RE: Block-807 Lot-4 459 Broadway, Westwood, NJ

Dear Taxpayer;

Per your request, attached is a list of Westwood Property owners within 200' of the above captioned property in the Borough of Westwood.

* Bergen County Dept. of Planning & Economic Dev., Division of Dev. Review, One Bergen Plaza, Rm. 415, Hackensack, NJ 07601-7076
* Suez Water, 461 From Road, Paramus, NJ 07652
* Public Service Gas & Electric, Manager-Corporate Properties, 80 Park Plaza T6B, Newark, NJ 07102
* Verizon, 900 Clinton 2nd Floor, Irvington, NJ 07111
* Cablevision, 40 Potash Road, Oakland, NJ 07436

The official newspaper is The Record, Public Notice Department, 1 Garrett Mountain Plaza, P.O. Box 471, West Paterson, NJ 07424-0471.

All applicants are urged to review N.J.S.A. 40:55D-12 which sets forth the statutory requirements for the giving of notice.

THE ATTACHED LIST OF PROPERTY OWNERS IS CERTIFIED TO BE TRUE AND ACCURATE ACCORDING TO THE TAX ASSESSMENT BOOK IN THE BOROUGH OF WESTWOOD.

Sincerely,
Barbara A. Potash
Barbara A. Potash, CTA
Tax Assessor
Borough of Westwood
Encl.

PRINTED ON 100% RECYCLED PAPER

OWNER & ADDRESS REPORT

WESTWOOD

THIS IS A CERTIFIED LISTING OF ALL PROPERTY WITHIN 200' OF:
BL-807 LT-4, 459 BROADWAY, WESTWOOD, NJ

BLOCK	LOT	QUAL	CLA	PROPERTY OWNER	PROPERTY LOCATION	Add'l Lots
806	4.01		4A	11 MADISON REALTY LLC 263 CENTER STREET WESTWOOD, NJ 07675	11 MADISON AVE	
806	5		4A	ANDREWS REALTY CORP 40-48 WASHINGTON AVE WESTWOOD, NJ 07675	40-48 WASHINGTON AVE	
806	6		4A	PARKCREST REALTY INC 26 WASHINGTON AVE WESTWOOD NJ 07675	26 WASHINGTON AVE	
807	1		4A	KAYWEST RLTY C/O METIS 401 HACKENSACK AVE,4TH FL HACKENSACK, NJ 07601	30-48 WESTWOOD AVE	
807	2		4A	KAYWEST RLTY C/O METIS 401 HACKENSACK AVE,4TH FL HACKENSACK, NJ 07601	435 BROADWAY	
807	3		4A	447 PROPERTIES, LLC % LAYFIELD 75 ELMWOOD AVE HO-HO-KUS,NJ 07423	447 BROADWAY	
807	5		4A	NIKKIE LLC 700 HILLCREST RD WASHINGTON, NJ 07676	467 BROADWAY	
807	6		4A	CORNICELLI, THOMAS & MAUREEN 475 BROADWAY WESTWOOD, NJ 07675	475 BROADWAY	
807	7		4A	LEFKARA REALTY, LLC 66 FAIRVIEW AVE PARK RIDGE, NJ 07656	487 BROADWAY	
807	8		4A	CP MANAGEMENT GROUP II LLC 192 ROUTE 22 WEST GREEN BROOK, NJ 08812	499 BROADWAY	
807	18		4A	ANDEL PROPERTIES, LLC % B. MEISEL 263 CENTER AVE WESTWOOD, NJ 07675	336 CENTER AVE	
807	19		15C	BOROUGH OF WESTWOOD 101 WASHINGTON AVE. WESTWOOD NJ 07675	308 CENTER AVE	
807	20		4A	90 CENTER LLC, 263 CENTER AVENUE WESTWOOD, NJ 07675	90-98 WESTWOOD/262-266 CE	
807	21		4A	KAYWEST RLTY C/O METIS 401 HACKENSACK AVE,4TH FL HACKENSACK, NJ 07601	72 WESTWOOD AVE	
807	22		4A	54-68 WESTWOOD AVE LLC 68 WESTWOOD AVE WESTWOOD, NJ 07675	68 WESTWOOD AVE	
906	1		15C	BOROUGH OF WESTWOOD 101 WASHINGTON AVE. WESTWOOD NJ 07675	MADISON-WASHINGTON	
906	2		5A	NJ TRANSIT CORP PO BOX 1549 NEWARK, NJ 07193	BROADWAY	

EXHIBIT I

459 BROADWAY REALTY, LLC

PHOTO INDEX

1. Front view of subject premises located on Lot 4 with front view of adjacent property located on Lot 5

2. Front view of subject premises located on Lot 4 with front view of adjacent property located on Lot 3

3. Back view of subject premises looking southwest

4. Back view of subject premises located on Lot 4 with back view of adjacent property located on Lot 3

5. Back view of subject premises located on Lot 4

6. Back view of subject premises located on Lot 4 with back view of adjacent property located on Lot 5

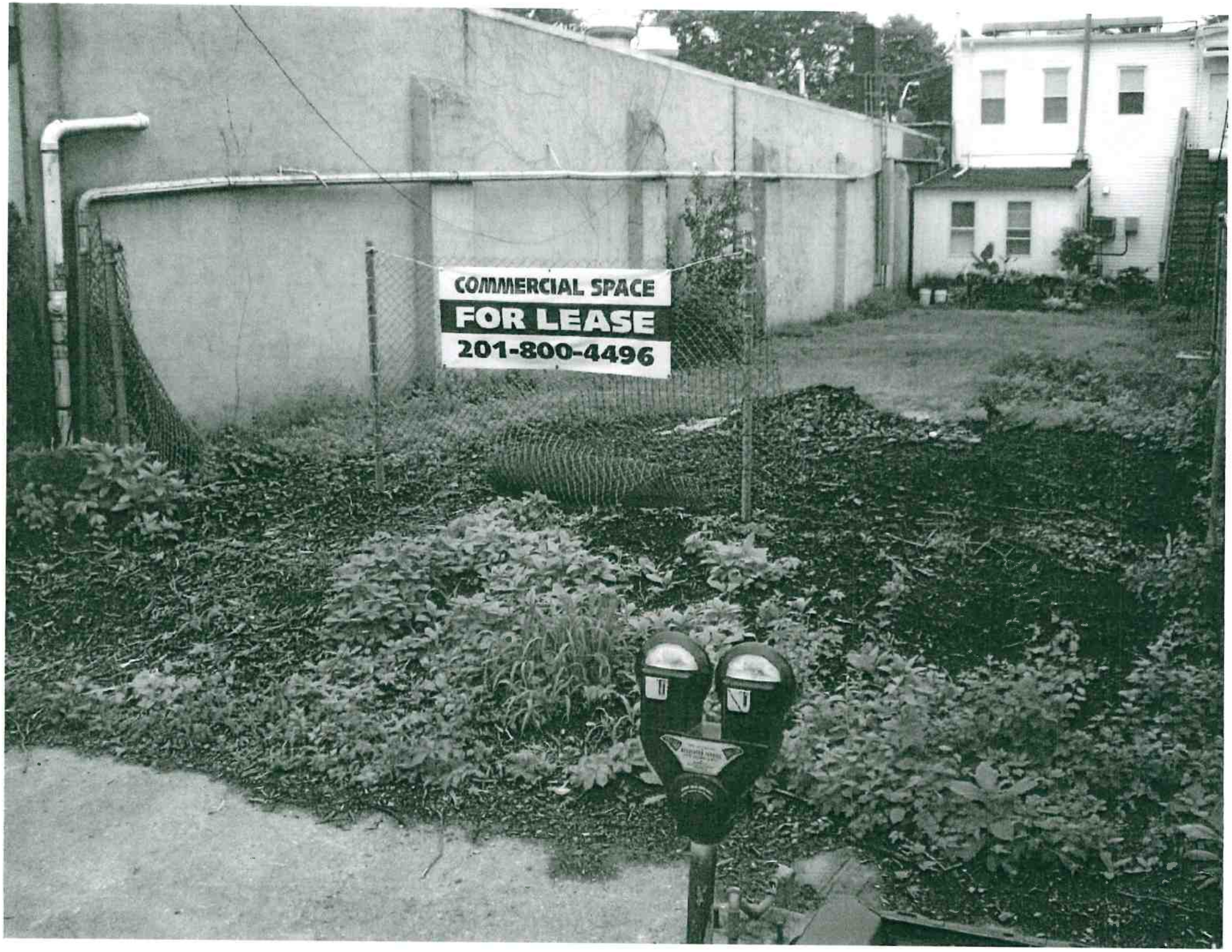
7. Back view of subject premises looking northwest

8. Proposed renovation with completed addition to back portion of the building

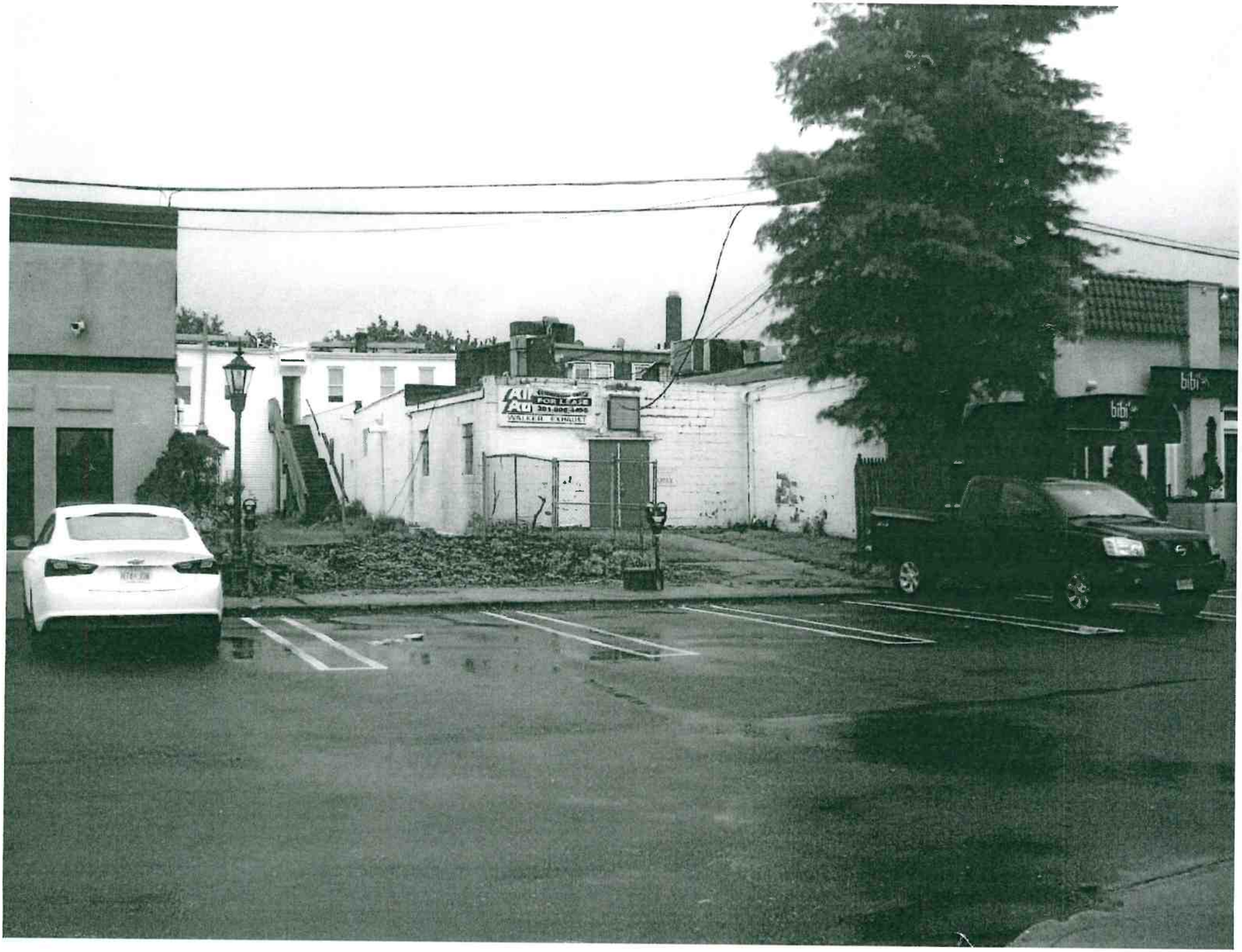
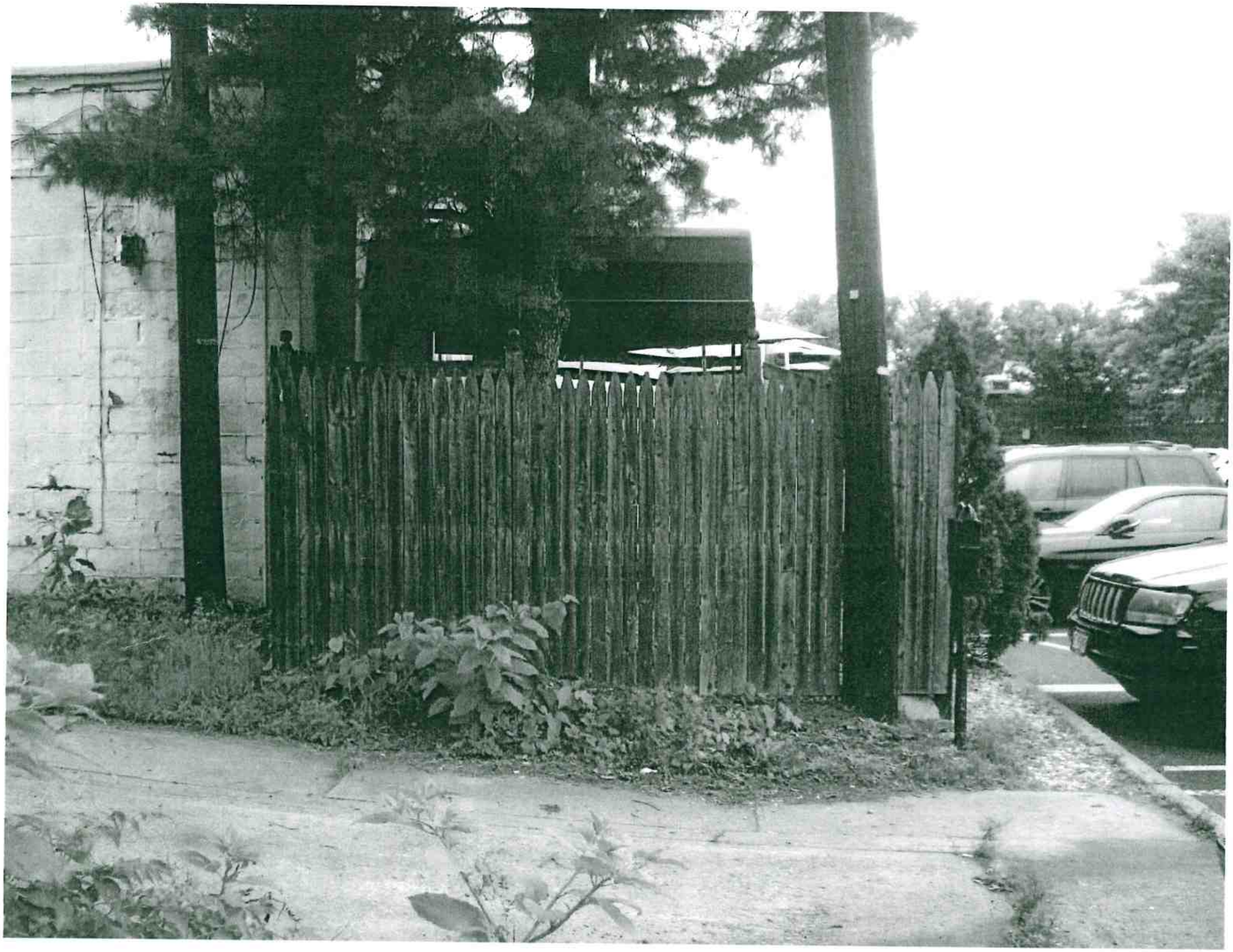
Granita Grille
ITALIAN RESTAURANT
FOREIGN & DOMESTIC
All Parts Auto Inc.
FOREIGN & DOMESTIC
DELUXE NAILS
NEW
201-666-8934
SPA
855 BROADWAY
Specializing in:
Gel, ECN
Pink & White

DELUXE NAILS
447

bibi'
bibi'


COMMERCIAL SPACE
FOR LEASE
201-800-4496

bibi's
701-890-4196


FOR LEASE
bibi